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United States Department of Justice
Office of the United States Attorney

REPORT FOR 1980

UNITED STATES ATTORNEY
NORTHERN DISTRICT OF ILLINOIS

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REPORT FOR 1980

UNITED STATES ATTORNEY
NORTHERN DISTRICT OF ILLINOIS

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INTRODUCTION

In the United States Attorney's Office for the Northern District of Illinois, 1980 was a year of innovation and productivity in both criminal and civil cases. We expanded our efforts in areas such as arson investigations, civil rights enforcement, and environmental protection. We obtained convictions in several major cases in the areas of governmental fraud, white collar crime, and official corruption. In some instances, these convictions marked the successful conclusion of investigations which began in 1978 and 1979. Consistent with Department of Justice nationwide policy, we have continued to emphasize quality over quantity.

The eighteen-county area which comprises the Northern District of Illinois is a leader nationwide in commerce, industry, transportation, finance and agriculture. All these fields provide potential avenues of endeavor by this office. Because of our limited resources, we are forced to target areas of primary importance in our investigations and court cases. At the same time, we strive to uphold the high standards of quality legal representation which have been a hallmark of this office for many years. It is our goal to serve the eight million people of the Northern District of Illinois in the variety of areas which touch upon their lives, and in so doing, to provide a safer and more pleasant living environment.

This office has an excellent staff of attorneys who must exercise major responsibility fairly and efficiently. These attorneys could not function without the dedicated and knowledgeable assistance of the non-legal staff, including paralegal specialists, secretaries, and other clerical and support personnel who are the backbone of this office. The lawyers who serve as Assistant United States Attorneys are selected through a painstaking process from among hundreds of applicants for our few openings. 1980 was a year in which we continued to hire experienced lawyers as well as energetic and eager new law graduates.

The work of this office depends upon the dedication and cooperation of the personnel within the many agencies with which we work closely on a day-to-day basis in both civil and criminal cases. We wish to extend our appreciation to these agencies and to acknowledge publicly the fine work which they have continued to do in 1980 as in past years. It is our pleasure to work with these agencies including the Federal Bureau of Investigation, Internal Revenue Service, Drug Enforcement Administration, Environmental Protection Agency, Secret Service, Customs Service, Immigration and Naturalization Service, Bureau of Alcohol, Tobacco and Firearms, Postal Inspection Service, Food & Drug Administration, Veterans Administration, Departments of Agriculture, Commerce, Energy, Labor, Defense, Housing and Urban Development, Health and Human Services, Education and Transportation, the Small Business Administration, Social Security Administration, Labor Management Services Administration, Community Services Agency, Securities and Exchange Commission, Federal Highway Administration, General Services Administration, Bureau of Prisons, Office of Personnel Management, United States Marshal Service, Corps of Engineers, Federal Aviation Administration and the Civil Aeronautics Board. In addition, we cooperate with local and state law enforcement agencies. We believe that cooperation among our various agencies ensures complete and efficient law enforcement for the people of the Northern District of Illinois. We wish also to acknowledge the fine assistance we receive from the various divisions of the Department of Justice in Washington, D.C. in many of the matters which arise in this district.

On a personal note, this report marks the fourth and final annual report which this office will publish during my tenure as United States Attorney. I am grateful for the privilege afforded me to serve in this office. It is my opinion that the fairness of law enforcement depends upon the honest and conscientious efforts of all people in law enforcement work. While an alert public is absolutely necessary, the citizen's real protection lies in the conscience and integrity of law enforcement personnel and prosecutors. As my term as United States Attorney draws to an end, I hope it can be fairly said that in 1980, and in the previous years of my tenure, the office of the United States Attorney has conducted itself with dignity and fairness.

Respectfully submitted,

THOMAS P. SULLIVAN

United States Attorney

LEGAL DIVISIONS

The United States Attorney's Office for the Northern District of Illinois consists of eighty–two assistants and eighty–eight administrative personnel who are divided into four divisions. Three of these divisions handle criminal matters: the Criminal Receiving and Appellate Division (CRAD), the Criminal Litigation Division, and the Special Prosecutions Division. The fourth, the Civil Division, handles all civil matters. Approximately twenty attorneys are assigned to each division, and each division has three supervisors—a chief and two deputy chiefs. In addition, there is a first assistant and an executive assistant to the United States Attorney.

The Criminal Receiving and Appellate Division (CRAD) is the section to which all new assistants handling criminal cases are initially assigned. The length of this assignment, which ranges from six to eighteen months, depends on previous exposure to criminal trials, development while in the division and the needs of the office. Assignment to this division is intended to acquaint an attorney with the many facets of the federal criminal justice system. Through the intense exposure to all aspects of the federal criminal system which CRAD provides, an assistant develops rapidly into an experienced investigator and competent litigator.

While assigned to CRAD, an assistant generally receives cases that require minimal grand jury investigation. However, an important part of the experience of a CRAD assistant is his or her work on complicated grand jury investigations with a senior assistant from another division. Cases routinely handled by CRAD assistants include crimes such as robbery, counterfeiting, postal theft, possession of stolen property, forgery, theft of government checks, embezzlement, and possession of illegal firearms.

An assistant in CRAD develops a case load largely through duty assignments. Approximately once every three weeks, a CRAD assistant has a duty day during which all routine matters presented to this office by federal investigatory agencies are assigned to that attorney. A typical duty day might include preparing a complaint, conducting a bond hearing, drafting a search warrant, and answering the legal and policy questions of federal agents. Once a case is assigned to a CRAD assistant, that assistant will handle the case through all stages of the criminal process.

In addition to their regular case load, CRAD attorneys brief and argue most of the criminal appeals handled by the office in the Court of Appeals for the Seventh Circuit. This experience in the regular preparation of appellate briefs and oral argument serves as a learning vehicle for new assistants by providing an opportunity to improve both research and writing skills, and oral advocacy, while at the same time exposing each new assistant to a broad range of substantive problems in criminal law and procedure.

As an assistant gains experience as a prosecutor, he is assigned to the Criminal Litigation Division. Here, the majority of criminal cases presented to the office are tried. Assistants assigned to the Criminal Division are trained to handle a wide variety of cases. For example, the typical case load of a Criminal Division assistant includes not only street crimes involving firearms, narcotics, bank robbery, mail theft, and arson, but also white collar cases of substantial complexity such as tax fraud, bank embezzlement, mail fraud and commodity fraud. In addition to carrying the heaviest trial calendars in the office, each Criminal Division assistant is charged with the responsibility of conducting investigations.

The Special Prosecutions Division is responsible for investigating and prosecuting matters involving official corruption, labor union corruption, criminal civil rights violations, and those financial or white collar crimes requiring extensive and complicated pre–indictment investigation. Consequently, the assistants assigned to this division are the more experienced trial lawyers in the office who are interested in directing long, complex investigations. They bring to each investigation an appreciation of the quantity and quality of evidence required for a successful prosecution, as well as a sensitivity to the various problems which may arise during trial. Like their colleagues in the Criminal Division, they are thoroughly familiar with the work of the grand juries and prosecutive tools such as immunity and plea bargaining.

The basic premise of the Special Prosecutions Division is that close cooperation from the very outset of a difficult investigation between experienced trial lawyers and investigative agencies will result in investigative efficiency and a successful prosecution. Most of the significant official corruption and white collar prosecutions in the past several years have resulted from close collaboration between our office and the federal investigative agencies from the inception of an investigation.

The Special Prosecutions Division consists of two sections: Official Misconduct and Financial Crimes. The former is responsible for investigations of corruption involving officials and employees of federal, state and local governments or agencies; labor union offenses and criminal civil rights violations. The latter handles complicated and sophisticated financial crimes which do not fall within the jurisdiction of Official Misconduct.

Attorneys in the Civil Division handle a broad spectrum of civil matters on behalf of numerous federal agencies. Civil Division attorneys practice virtually every field of law. Civil rights, tort, environmental, tax, commercial, and administrative law are among the many diverse areas of law, affirmatively and defensively, litigated. The Commercial Litigation Section of the Civil Division is responsible for collection of monies and judgments due the United States.

A special Civil Rights Enforcement Unit was created within the Civil Division during 1979, and with increased emphasis, this unit handled many cases of both community and individual significance during 1980. Also in 1980, increased emphasis was placed on the enforcement of environmental laws, particularly with respect to pollution of Lake Michigan.

The assignment of cases to assistants in this Division is dependent upon the experience level of the individual attorney and the needs of the office. Initially, a new assistant will be assigned a wide variety of less complex cases. As the assistant acquires more experience, cases dealing with the more complex issues of federal law and policy will be assigned. In addition, Civil Division attorneys participate, both as students and instructors, in a wide variety of legal education seminars including the Attorney General's Advocacy Institute in Washington.

Attorneys in the Civil Division handle their cases throughout the entire litigative process. In addition to handling each assigned case through all district court level procedures, in the event of an appeal, Civil Division assistants also brief and argue each of their cases in the Court of Appeals.

ATTORNEYS

This office has an authorized staff of eighty-two attorneys. Because of the turnover of personnel, a total of ninety-three attorneys worked as assistants during 1980. The backgrounds, education and experience of our attorneys differ widely.

During 1980, fifty-four attorneys on our staff graduated from local law schools with seventeen graduates from Northwestern, eleven from Loyola, ten from John Marshall, seven from De Paul, six from IIT-Chicago/Kent, and three from the University of Chicago. Twenty-two of our attorneys are graduates from other Midwestern law schools including Illinois, Indiana, Michigan, Notre Dame, Wisconsin and Washington University at St. Louis. Eastern law schools from which fourteen of our attorneys graduated include American University, Washington College of Law; Boston College; Cornell; Georgetown; Harvard; Maine; Suffolk; Temple and Villanova. One of our assistants graduated from the University of San Francisco, and two of our attorneys are graduates of Duke and Vanderbilt Universities.

Our attorneys have brought a wealth of legal experience to this office from a variety of legal positions. Of the total number of attorneys employed during 1980, twenty-two had been in private practice immediately prior to employment here. Nineteen attorneys came directly from other federal agencies including the Internal Revenue Service, the Department of Labor, the U.S. Environmental Protection Agency, the Securities and Exchange Commission, and the National Labor Relations Board. Fifteen of our attorneys held positions as judicial clerks prior to joining our staff, and fourteen attorneys worked for various state agencies including the State's Attorney's office and the Office of the Public Defender of the State of Illinois.

In addition to their work in this office, many of our attorneys continue their community and public service involvement through teaching and public speaking in diverse areas of expertise such as trial practice, computer fraud, commodity fraud, medical malpractice, civil rights and the Federal Food, Drug and Cosmetic Act. Ten of our senior assistants were instructors in the Attorney General's Advocacy Institute in Washington, D.C., and eighteen of our attorneys served as adjunct professors at local law schools during 1980.

Hiring

To select the best qualified attorneys from the hundreds of applications received each year, we have established a hiring procedure which is designed to ensure fair consideration of each applicant. Members of a Hiring Committee, composed of ten attorneys representing a cross-section of this office, review each resume and interview only a few select applicants. The Hiring Committee then chooses candidates for consideration by the Hiring Review Committee which is com-

posed of the United States Attorney, the First Assistant, the Executive Assistant and the four division chiefs. Members of the Hiring Review Committee conduct additional interviews and make the final selections.

Our goal is to identify those applicants who have demonstrated consistent excellent performance and who have the potential to be successful trial attorneys. Evaluations, therefore, are based on many factors including work experience, grades, service to the community and dedication to government service. Increasing numbers of experienced lawyers are applying for positions as Assistant United States Attorneys in this district. Consequently, there has been a decrease in the number of new law school graduates hired while experienced lawyers are being hired in greater numbers. During 1980, two newly hired attorneys came directly from law school (one had been an Internal Revenue Service agent for seven years). This office will continue to consider for hiring exceptional new lawyers directly from law school.

Individuals selected for positions as Assistant United States Attorneys are not hired under the federal Civil Service program. Attorneys who join our staff agree to serve for a minimum period of four years.

We encourage members of minority groups to apply for positions as Assistant United States Attorneys. During the past year thirteen new assistants were hired. Of the thirteen, four, or 31% were minorities, two male and two female. As of December 31, 1980, there were twenty-two minority attorneys, including fifteen women, working as Assistant United States Attorneys, or 27% of the total attorney staff. Two minority attorneys were promoted to supervisory positions of Chief and Deputy Chief of the Criminal and CRAD divisions, respectively. We are proud of the excellence of our minority recruitment program and will continue to strive to increase minority representation on our staff.

Training

In order to ensure that our new attorneys possess the requisite litigation skills, new assistants participate in programs conducted by the Attorney General's Advocacy Institute in Washington, D.C. These programs provide intensive training in all phases of civil and criminal trials by having attorneys participate in mock courtroom situations followed immediately by critiques from instructors. Additionally, a one-week course on appellate brief writing and oral argument is offered. The Institute also presents training programs in various substantive areas of civil and criminal law.

To supplement these programs, we developed our own program of advocacy training. One advantage of an in-house program is that it permits us to emphasize topics which are of local concern. For example, because many of the trials in the Northern District of Illinois depend upon introduction of documentary evidence, we use hypothetical trial situations in which attorneys are required to organize and present voluminous and highly technical documentary evidence in a proper and understandable manner.

Our course is divided into two parts. The first consists of the viewing of nine hours of videotapes of Professor Irving Younger's lectures on evidence. The second segment entails approximately 10 two-hour sessions in an available courtroom of the district court. During these sessions new assistants engage in a mock trial and address problems in direct and cross-examination. Their performances are critiqued by senior assistants in this office.

To increase the value of these training sessions, we have acquired videotape equipment which enables attorneys to see and hear themselves at work and allows them to observe examples of effective courtroom presentations by more experienced attorneys in the office.

We encourage attorneys to attend lectures and seminars outside the office which have direct relation to the work of this office. In addition, we arrange lectures solely for the attorneys in this office. These lectures, given by federal judges, senior assistants, and federal agents with special expertise, have covered such diverse topics as the granting of immunity, techniques and procedures in conducting grand jury investigations, obligations to produce evidence under *Brady v. Maryland*, pretrial preparation of civil and criminal trials, jury selection, depositions, civil discovery, and polygraph examinations and hypnotism as investigative techniques.

Special Assistants

During the past year, three Special Assistant United States Attorneys were temporarily assigned to this office in order to efficiently handle certain matters which are either in a specialized area of the law or have experienced an unusual increase in litigation. Two of the Special Assistants who served during 1980 are employees of other federal agencies, and the third Special Assistant was assigned to this office on detail from the Civil Rights Division of the Department of Justice in Washington, D.C.

Edward J. Berman, an attorney with the Department of Education, works in conjunction with our Commercial Litigation Section of the Civil Division on the collection of defaulted federally insured student loans. During 1980, $43,667 was collected on a total of 544 active accounts. Special Assistant United States Attorney Berman's appointment is expected to continue into 1981.

Patrice M. Scully is an attorney for the United States Customs Service. Ms. Scully handles all cases involving the seizure by customs agents of pornographic materials or lottery tickets which enter the country in violation of 19 U.S.C. §1305. During 1980, forty-nine such cases which were all civil matters were handled.

Carmen Jones-Mitchell, who was an attorney with the Department of Justice at the time of her appointment, worked on matters within our Civil Rights Enforcement Unit including several significant investigations and briefs.

ADMINISTRATIVE DIVISION

The efficient handling and successful prosecution of cases in the Northern District of Illinois would not be possible without the dedication and superior work of the non-lawyer staff. This Division is headed by the Administrative Officer, Jerome Stasiek, who is the principal non-legal advisor to the United States Attorney and is responsible for the overall direction of the administrative programs in the office. Together with the Administrative Assistant, Patti Jo Hamann, the Administrative Officer provides leadership in establishing basic office policy, program reviews, preparation of the budget, supervision of non-lawyer training and personnel, control of the financial management program and the myriad other details essential in managing an office of this size and activity.

The skilled efforts of our entire staff of secretarial, clerical, paralegal, library and other administrative personnel are an indispensable element in the successful operation of the office of the United States Attorney. We are especially proud of our support staff.

Secretarial and Clerical

Each year, this office hires approximately fifteen secretaries who bring with them a variety of experience and training. Many of our secretaries have transferred from other federal agencies. A few have been recruited directly from area secretarial schools and high schools. All are hired on the basis of merit as determined by a combination of test scores, experience and interviews. Although legal experience is desirable, it is not required. Interested individuals without a civil service rating should take the applicable civil service test to have their names placed on the register of qualified applicants.

In addition to our secretarial staff, approximately twenty-five other individuals are employed in positions such as docketing clerk, legal technician, librarian, file clerk, clerk/typist and receptionist. While most of these positions are permanent, full-time positions, there are a few opportunities for part-time or temporary employment.

For information about any of these positions, contact Patti Jo Hamann at 353-8038.

Paralegal

Our paralegal staff in 1980 consisted of five full-time employees and one temporary employee separately assigned to the Civil Division. The paralegals are frequently the first contact members of the public have with the office of the United States Attorney in the Northern District. As a screening committee, they respond to citizen inquiries which do not directly relate to ongoing cases or investigations. Because the federal bureaucracy seems unresponsive to many citizens, members of the public frequently turn to the office of the United States Attorney for assistance in solving their problems. The paralegal staff endeavors to find the appropriate city, state, or federal agency, or private organization, to assist the complainant.

The paralegals also process all "hotline" calls concerning investigations being conducted in this office. During the past year, among the hotlines widely publicized were those related to arson-for-profit, illegal toxic waste disposal, and the motoscam investigation. Each of these investigations prompted numerous persons in the Northern District and from other locales to call our office with complaints or to offer leads and information.

In addition, on election days the paralegals process calls from citizens regarding voting irregularities in order to determine whether the jurisdiction is federal, state or local, so that the appropriate officials may be contacted. The paralegals also are responsible for the preparation of this annual report of significant cases. They assist in responding to Freedom of Information Act requests, analyze documents, abstract transcripts and compile statistical reports.

All foreclosure and condemnation cases filed under 28 U.S.C. §2410 are handled by the paralegals. Working under the supervision of a Civil Division attorney who makes all court appearances, the paralegals are responsible for other aspects of the cases.

The work of the paralegals is coordinated by the Executive Assistant United States Attorney. Because of the increase in the office case load, the office has been authorized to add five additional paralegals to the staff. Paralegals are selected from rosters of applicants who qualify based on their scores on the Professional Aptitude Career Examination (PACE) given by the Office of Personnel Management. Applicants currently employed by another federal agency also may be considered. While the majority of our paralegals have attended law school or have received paralegal training, no formal training is required. Interested individuals may contact Patti Jo Hamann at 353-8038.

CASE MANAGEMENT SYSTEM

The Case Management System, which was begun in 1978, is a valuable management tool. It ensures the timely processing of cases and prevents investigations from becoming dormant or delinquent.

Under the system each attorney meets with his or her supervisor every two months to review the current status of assigned cases or investigations and to discuss the action to be taken within the next 60 days. In conjunction with case reviews, regulatory and investigative agencies referring cases to our office are sent letters every 120 days requesting that the agency advise us directly of any case or investigation needing attention by assistants.

To aid in complying with the Speedy Trial act, all arrest cases are put on a 14- and 20-day notification for review system. The 14-day notice goes to the assigned attorney and the Division Chief. If no action is taken, the 20-day notice goes to the First Assistant as well as the assigned attorney and his or her supervisor.

The case review system also provides a method for identifying workload problems. It identifies attorneys who have too many pending matters to manage them adequately; thus, reassignments can be made. In addition to this periodic case review, each attorney's overall performance is reviewed once a year by his supervisors. Because assistants are not part of the Civil Service program, all promotions and raises are based on merit, not length of service.

WESTERN DIVISION

In response to the needs of the citizens of the western counties who have civil and criminal matters involving federal jurisdiction and of the various federal agencies whose agents work in the western counties, the United States Attorney has appointed three assistants, Edward Moran, David Stetler and Keith Syfert, to handle cases in the Western Division of the Northern District of Illinois. The office for the Western Division which consists of Boone, Carroll, Jo Daviess, Lee, Ogle, Stephenson, Whiteside and Winnebago counties, is located in the United States Attorney's office in the new federal courthouse in Rockford. The three assistants, who are part of our full-time staff of Chicago office attorneys, serve in Rockford on a part-time basis.

On January 11, 1980, a "corruption hotline" was established in the Rockford FBI office to assist in the expanded effort to combat white collar crime and governmental fraud and corruption in the Western Division. The focus of the effort will be on illegal receipt of money by local officials, including local governmental employees and labor union leaders. Because of the continuing need for public cooperation, citizens who have information in these areas are encouraged to call the FBI hotline at the following number: 815-987-4470. A similar corruption hotline number for use by citizens of Will County is: 815-740-2075.

To assist in the growing number of investigations, a federal grand jury was convened in Rockford on January 11, 1980. The jury will sit as needed for eighteen months, on an average of once or twice a month.

During 1980, fourteen indictments were brought in the Western Division and three criminal trials were conducted. Of the fourteen indictments, eleven defendants pled guilty, one defendant will be tried on the same charges (interstate transportation of stolen property) in Minnesota under a Rule 20 transfer, one indictment was dismissed, and one defendant is awaiting trial. The three trials conducted during 1980 ended with one mistrial, one verdict of not guilty, and one guilty verdict which has been appealed.

LEGAL INTERNS

Three times each year, our office selects between fifteen and twenty third-year law students to work as legal interns. The interns who work during the school term work approximately twenty hours a week. Generally they are not compensated, but the majority do receive academic credit through their schools' clinical

education programs. In 1978 a work-study program was initiated with most of the law schools in the Chicago area. Under this program the school pays the student from federal work-study funds. This office then reimburses the school twenty percent. While we reserve the right to select the students, the schools determine a student's eligibility for academic credit or work-study funds.

The summer intern program differs from the school year program in that the students work full-time and about half are paid a salary. In 1980, nineteen students from nine law schools located throughout the country worked in the summer program.

The work of the student interns includes assisting in all aspects of trial preparation, legal research, writing memoranda of law, drafting pleadings and appellate briefs, assisting in preparation for depositions and pretrial conferences and observing courtroom procedures. We believe our intern program is unique in offering the opportunity to broaden the experiences available to the interns beyond their normal work assignments and to create opportunities for more interaction between interns and assistants.

Many of our legal interns are selected as law clerks to district or appellate court judges. Competition from experienced lawyers seeking positions as assistants and a small number of vacancies reduced the number of new law graduates hired by this office from six in 1978 and three in 1979, to two in 1980. Many of our interns, however, are hired as Assistant United States Attorneys two to four years after their graduation from law school.

Students interested in applying for internships should do so no later than December 15 for the following summer, March 15 for the fall term, and October 1 for the spring term. Resumes should be sent to the attention of the Executive Assistant United States Attorney and must specify for which program the application is intended.

ELECTION DAYS

For the presidential primary on March 18, 1980, and the general election on November 4, 1980, the United States Attorney's Office, in conjunction with the United States Marshal's Service, implemented a field effort which entailed sending Assistant United States Attorneys and Deputy United States Marshals to various polling places throughout the City of Chicago, and the suburbs, in order to detect, prevent, and obtain evidence of voting irregularities. Under the direction of Assistants Barry R. Elden and William A. Spence, approximately sixty assistants, accompanied by Deputy Marshals and equipped with radios, toured Chicago and the suburbs and responded to and investigated allegations of vote fraud. These were the thirteenth and fourteenth federal elections since 1968 that the United States Attorney's Office employed "in the field" coverage by Assistant U.S. Attorneys on election day. In addition to the field effort, Assistant U.S. Attorneys and federal personnel answered telephones in the United States Attorney's Office to receive complaints of irregularities. Over 100 complaints were received and acted upon during each election.

In 1980 the attorneys in the three divisions handling criminal cases, Criminal Receiving and Appellate, Criminal Litigation, and Special Prosecutions, continued to handle a wide variety of cases. Because of the limitation of staff resources, not all cases brought to the attention of this office can be pursued. In 1980 the Attorney General of the United States reemphasized the Department of Justice policy to concentrate its limited resources on the investigation and prosecution of major cases.

Charges were filed against 685 defendants in this district in 433 cases (excluding superseding indictments) in 1980. (A total of 649 defendants were charged in 419 cases in 1979.) Of the 140 defendants who went to trial in 1980, 102 were found guilty. Approximately 410 defendants pled guilty. Thus, the overall 1980 conviction rate exceeded 93 percent. One hundred twenty-three persons were placed in the Pre-Trial Diversion program, as explained in that section of this report. In addition to the activity in the district court, attorneys in the three criminal divisions filed 90 appellate briefs in 1980.

The Federal-State Law Enforcement Committee continued to meet on an ad hoc basis to consider problems of major importance in the investigation and prosecution of criminal conduct on the federal and state level. Some of the matters handled by the committee during the course of the year included a more effective system of transferring prisoners between state and federal jurisdictions and the handling of cases involving defendants who agree to cooperate in subsequent investigations.

OFFICIAL CORRUPTION

Cook County Board of (Tax) Appeals

A major investigaton of corruption at the Cook County Board of (Tax) Appeals resulted in five indictments charging fourteen persons in 1980.

In the first indictment, Thomas Lavin and Donald Erskine, former deputy commissioners at the Board of Appeals, and Jimmie M. Smith, former hearing officer, were charged along with six others with racketeering, mail fraud, tax fraud, perjury and obstruction of justice. The indictment alleges that the nine defendants conspired in a bribery scheme resulting in approximately $30 million in fraudulently obtained property assessment reductions granted on more than 2,000 complaints filed at the Board of Appeals.

The others charged in that indictment are: Bartley Burns, Vincent Battista, Laurence Kelly, Stanley Balodimas, John Vandenbergh and Kenneth Valerugo.

According to the indictment, some of the defendants, identified as "runners," solicited property owners to file assessment reduction complaints. Those complaints were fraudulently processed by other defendants employed at the Board of Appeals. The property owners paid the "runners" a percentage of the resulting property tax savings, usually 50 percent of the first year's tax savings. The "runners," in turn, allegedly split the fees with Lavin and Erskine.

By year's end Smith had pled guilty and awaited sentencing. The other defendants were awaiting trial. (Lavin, Battista, Balodimas, Valerugo and Vandenbergh pled guilty in January 1981.)

Five other persons were charged in separate indictments involving four similar schemes. Jack Jacobs, former administrative assistant at the Board of Appeals, pled guilty and was sentenced to six months work release and fined $26,000. Jerome Berardi, former chief clerk, was awaiting trial. Albert Ebert, owner of a real estate management company, was awaiting trial on charges arising from 100 fraudulent complaints submitted by him which resulted in $3 million in illegal assessment reductions. Joseph Armato, employee of a tax consultant firm, pled guilty and was placed on two years probation. The investigation is being conducted by agents from the Federal Bureau of Investigation. (AUSAs Lassar, Podliska, Safford and Senderowitz)*

Chicago Police Department Motor Pool Investigation

Fifteen individuals and three private vendors were indicted in 1980 for participating in schemes to defraud the Chicago Police Department (CPD) and the City of Chicago through kickbacks and inflated billings at the CPD motor pool. The charges against the defendants include mail fraud, extortion, racketeering and perjury. Among the defendants are nine employees of the CPD Electronics and Motor Maintenance Division: Anthony Kovic, Anthony Pesha, Miles Coleman, Thomas Kurz, John C. Balzano, Terrence Faul, Bruno Roti, Daniel Pacella and Earl Pfeiffer.

* Attorneys are listed alphabetically throughout this report.

Also named in the charges were EL-EN, Inc.; Trancor, Inc.; and Southwest Spring Service, Inc.; George DiLeonardi and Robert Cox, former employees of Motorola, Inc.; and John Szybkowski, Alex Plattis, Richard Nawrocki and Ronald Cavale, all owners of auto repair shops or auto rental agencies.

The five indictments returned allege that motor pool employees and private vendors under contract with the City of Chicago inflated vehicle work order billings, adding charges for repairs that were unnecessary and not performed. In some instances bills were submitted for vehicles that were never sent in for repair. In addition, various motor pool employees allegedly extorted $438,000 from four vendors between 1974 and 1979 in exchange for Police Department business.

In the trial of the first indictment, former motor pool chief Kovic was convicted by a jury of extortion, mail fraud and racketeering. He was sentenced to 12 years imprisonment and fined $94,000. Testifying at the trial were the two former Motorola executives, DiLeonardi and Cox, who earlier pled guilty and were fined $1,000 each. The EL-EN and Trancor companies also pled guilty to that indictment and were fined $20,000 and $50,000, respectively. At year's end, Kovic was awaiting a second trial on other charges stemming from this investigation.

All but two of the remaining defendants were awaiting trial at year's end. Southwest Spring and Pfeiffer pled guilty to one indictment. The company was fined $1,000 and ordered to pay the City of Chicago $50,000 restitution. Pfeiffer was awaiting sentencing. (Bruno Roti pled guilty in January 1981 to charges in another indictment and was sentenced to six months work release and fined $5,000.)

This investigation is continuing and has been conducted by the Postal Inspection Service, together with the Internal Affairs Division of the CPD. (AUSAs Connelly, Syfert and Tarun)

Chicago Fire Department Test Fixing

Seven Chicago men, including a state representative and a former Chicago alderman, were prosecuted as a result of an investigation of test fixing in the Chicago Fire Department (CFD). The scheme involved payoffs of $100 to $500 to alter the results of the physical performance test given to firefighter candidates. The test was given pursuant to a court order in *United States v. City of Chicago*, a civil rights suit charging discrimination in CFD hiring and promotions.

All defendants pled guilty except Robert Terzich, himself a former firefighter. Three defendants resigned from the CFD as part of their plea agreements. Joseph Bomba, a city personnel examiner at the time of the exams who resigned when the payoffs were discovered in 1978, was awaiting sentencing at year's end. The other defendants, their positions and sentences are:

August F. Aparo, firefighter—30 days imprisonment.
Joseph T. Lynch, Fire Academy engineer—60 days imprisonment, $1,000 fine.
Albert J. Prendergast, deputy fire chief—90 days imprisonment, $1,000 fine.
Gerald E. Rappeport, firefighter and Fire Academy instructor—30 days imprisonment, $1,000 fine.
Stanley F. Zydlo, 26th Ward Alderman at the time of the exam—60 days imprisonment.

Terzich was awaiting trial at year's end. The FBI investigation is continuing. (AUSA Coulson)

City of Chicago Inspectors

In a continuation of this three-year investigation of extortion by city inspectors, seven employees of the Chicago Department of Inspectional Services were indicted in 1980. The evidence showed that the defendants extorted contractors and property owners for payments of $300 to $6,800 in exchange for overlooking building code violations or city permit requirements for remodeling and construction done in Chicago buildings.

Three of the defendants were convicted after trials: Thomas M. Guilfoyle, area electrical inspection supervisor; James H. Powell, plumbing inspector; and Luther M. Holt, electrical inspector. Three other electrical inspectors (Robert D. Crowley, Robert G. Elliott and Ralph N. Nelson) and one boiler inspector (Charles M. Anthony) pled guilty. Their sentences and the attorneys handling these cases were as follows:

Defendant/Disposition	AUSA
Guilfoyle: one year and one day imprisonment, two years probation to include community service.	Johnson Sharkey
Powell: one year work release.	Rafferty Reidy
Holt: nine months work release.	Giacchetti Johnson
Crowley: six months work release, two years probation.	Rafferty

Defendant/Disposition	AUSA
Elliott: $10,000 fine, three years probation, restitution.	Lassar
Nelson: $5,000 fine, two years probation.	Cook
Anthony: two years probation.	T.A. Durkin Sklarsky

Following are the totals of the convicted employees of the Chicago Department of Inspectional Services for the past three years:

Year	Employees Convicted
1978	4
1979	25
1980	7
TOTAL	36

In a related case, two men (not employed by the Department of Inspectional Services) were convicted after a bench trial of conspiracy in connection with their extortion of $3,000 from an electrician to ensure that he would pass the city licensing examination. Electricians must be licensed to obtain permits for work in Chicago buildings. The victim gave the requested payoff to Marvin Mattson, a car salesman, who gave half to Edward Greene. Greene allegedly gave the money to an employee in the Department of Inspectional Services. The electrician later passed the test. Greene had been an accountant in the office of the Clerk of the County Court. The defendants were awaiting sentencing at year's end. The case was investigated by the FBI. (AUSAs Connelly and Duffy)

United States v. Borg

Edward J. Borg, Schiller Park police chief, was indicted for violation of federal racketeering and extortion laws. Borg is charged with extorting nearly $50,000 from several Schiller Park area towing firms between 1968 and 1979, in return for referrals of police department towing requests to those firms. At year's end he was awaiting trial. The case was investigated by the FBI. (AUSA Kent)

United States v. Baresel, et al.

The highway commissioner for Dundee Township and his two sons were indicted for using the township highway commission as a support service for the construction company they owned. According to the indictment, David E. Baresel, Steven Baresel and Gerald Baresel used highway commission employees to perform work for their private company and instructed them to charge the township for materials or services purchased for use by the company. David Baresel also is charged with submitting false time sheets on behalf of employees hired under the federally-funded Comprehensive Employment and Training Act (CETA) and diverting fees owed to Dundee Township to his personal use. The defendants were awaiting trial at year's end. The FBI conducted the investigation of this case. (AUSA Atkins)

United States v. Pickette

A jury convicted Oliver W. Pickette for lying to a grand jury during testimony about an extortion scheme. The grand jury had been investigating allegations that Pickette, while employed as an electrical foreman with the Chicago Housing Authority (CHA), solicited and accepted kickbacks of $100 to $900 from CHA electricians in exchange for his assurance of their continued employment. He was sentenced to two years probation, including eight months work release. This case was investigated by the FBI. (AUSA Lassar)

United States v. Modrich, et al.

David Leader, his brother Norman and Buddy Scott were convicted of aiding Michael Modrich, a former state employee, in a scheme to steal $1.2 million in securities in the custody of the state's Abandoned Property Division. Modrich, who was assistant superintendent of that division of the Illinois Department of Financial Institutions, was also convicted, but his conviction was overturned by the trial judge. (That decision is now before the Court of Appeals for the Seventh Circuit on the government's appeal.) Scott was placed on three years probation. The Leaders were each sentenced to five years imprisonment, followed by five years probation and ordered to pay $10,000 fines. The case was investigated by the Illinois Department of Law Enforcement. (AUSAs Connelly and Streicker)

United States v. Matalone

Joseph L. Matalone, former chief of security for the Regional Transportation Authority (RTA), pled guilty to charges that he received pay as a full-time truant officer for the Chicago Board of Education while he was employed as the full-time director of internal security for the Illinois Bureau of Employment Security. Matalone admitted he defrauded the Board of Education by submitting fictitious reports indicating that he was contacting truant students when he actually had not done so. He was sentenced to five years probation,

including seven days work release and one year of community service. This case resulted from an investigation by the Illinois Department of Law Enforcement. (AUSA Stewart)

FRAUD AGAINST THE GOVERNMENT

Snow Fraud Investigation

A former Snow Command employee and a former Chicago Streets and Sanitation Department employee were awaiting trial in *United States v. Conn, et al.*, along with two others, on charges of defrauding the City of Chicago of more than $100,000 for snow removal work that allegedly was never done after the blizzard in 1979. The Federal Disaster Assistance Administration funded approximately $5 million of the costs of emergency snow removal work after the storm, much of it performed by independent contractors. Frank Petullo allegedly obtained snow removal worksheets from Snow Command offices, where he worked, and gave them to Robert Conn, head of a fictitious Wisconsin corporation. Conn has pled guilty to charges that he submitted false bills totalling more than $100,000 for snow removal work he never did. Petullo is accused of filing the phony claims with the city Department of Streets and Sanitation.

John Christopher, a paving contractor who once worked for the Department of Streets and Sanitation, is charged with making a false statement when he attempted to cash the check Conn received in the scheme. Anthony Giacomino and John Knight allegedly acted as middlemen in the attempt to cash the check. After one week of testimony, a mistrial was declared. The case will be retried in 1981.

In a related case, *United States v. Christopher*, John Christopher was indicted and convicted by a jury for unlawful possession of a silencer. He was sentenced to four years incarceration.

(Giacomino was indicted on January 21, 1981, for obstruction of justice, mail fraud and violation of the federal arson statute in connection with a January 28, 1980, fire in two construction trailers at Giacomino's place of business. Destroyed in the fire were books and records subpoenaed by the grand jury, which was investigating allegations that Giacomino's companies submitted to the City of Chicago $1.6 million in fraudulent snow removal bills.)

These cases were investigated by agents from the Bureau of Alcohol, Tobacco and Firearms and the FBI. (AUSAs W. Jones and Stewart)

United States v. Wasserman

Morris Wasserman was charged with defrauding the General Services Administration (GSA) in that he violated the terms of the federal government's donation of surplus property program. Under the program, surplus government property is donated to nonprofit entities for a specific use and may not be sold. In this instance, the GSA had given 40,000 pounds of lithium and 32,000 pounds of titanium to a Minnesota vocation school. Wasserman was convicted after a bench trial of receiving more than $118,000 for the metals, which initially cost the government approximately $600,000, and for lying to GSA investigators about his use of the metal. He was sentenced to five years probation and fined $25,000. (AUSAs Sanders and Stewart)

United States v. Swick

Joseph P. Swick, a Chicago area building contractor, pled guilty to charges of mail fraud, making false statements to the government and obstruction of justice in connection with a scheme to defraud the Department of Housing and Urban Development (HUD). Swick purchased at least a dozen HUD properties at substantially reduced prices by placing bids in the names of other individuals and falsely claiming they would own and occupy the properties. The properties were then placed in trusts and sold by Swick at full market prices. As a result of this scheme, Swick obtained approximately $210,000 over a two-year period. Swick admitted bribing a witness to lie to FBI agents investigating the case. He was sentenced to six months work release and fined $5,000. (AUSA Podliska)

GOVERNMENT AID FRAUD

Fraud in government aid programs is a perennial problem nationwide. Our office continues to support the view that prosecution of such fraud can be a powerful deterrent to further abuse of the programs. As a result, numerous charges were filed against individuals for obtaining illegal benefits and other frauds in connection with the following federally funded programs: Medicare, Medicaid, Comprehensive Employment and Training Act (CETA), welfare, social security and unemployment insurance. In addition, an investigation into fraud in the state-funded Circuit Breaker property tax relief program resulted in several indictments. A discussion of some of those cases follows.

Medicare and Medicaid Programs

As a result of investigations involving abuses of the Medicare and Medicaid programs at two Chicago area hospitals, nine people were charged in connection with separate schemes to defraud. Six defendants have been convicted, and three others are awaiting trial on charges of diverting hospital revenues for personal use. The investigation into profiteering at area community hospitals is continuing.

In *United States v. Cannaven, et al.*, the chief financial officer and the service director of the Northlake Community Hospital, both of whom also served on the hospital's board of directors, were convicted of defrauding the Medicare program and the other limited partners at the hospital. Vinson W. Kreimeier and John P. Cannaven used $410,000 in hospital funds to build a marina in Michigan and to make improvements on Cannaven's Michigan residence. Kreimeier falsely recorded the expenditures as hospital building costs and later received partial reimbursement from Medicare for the inflated hospital operation costs. Kreimeier pled guilty and received a suspended two-year sentence. Cannaven, who was a part owner of a hospital, was found guilty after a two-week jury trial. He was sentenced to two years in prison followed by three years probation. The investigation was conducted by the federal Health Finance Administration. (AUSAs T. A. Durkin and Sklarsky)

Two former owners of Roosevelt Memorial Hospital in Chicago and five employees were charged in *United States v. Beal, et al.*, with using their positions to defraud the Medicare and Medicaid programs of at least $781,000 over an eight-year period. The 10-month investigation revealed a variety of allegedly improper activities, including payments to hospital employees' children who provided no services, extensive personal travel at hospital expense, a health club which served no patients, substantial kickbacks from nine vendors and personal home furnishings and improvements at hospital expense. The indictment also charges misuse of hospital credit cards and automobiles, improper political contributions, falsification of hospital checks intended for certain vendors, improper payments to a City of Chicago health inspector and financial manipulation of a large loan account. The nonprofit hospital receives about 70 percent of its revenue from Medicare and Medicaid.

J. Malcolm Beal, comptroller and budget director at Roosevelt, pled guilty and was awaiting sentencing at year's end. Also pleading guilty were Donald Horwitz, purchasing agent; Dr. Samuel Matlin, chief executive officer and owner; and Richard Woit, director of the hospital's health club. Horwitz was sentenced to 90 days work release and three years probation and fined $2,000; Matlin was sentenced to five years probation with the condition that he provide medical services at a Salvation Army medical clinic, in addition to a $20,000 fine; Woit was placed on probation for one year.

The other three defendants were awaiting trial at year's end. They are Robert Bolnick, administrator; Emily (Bysak) Rose, director of ambulatory care and business manager; and Dr. Irving Weissman, medical director of home health care and owner. Rose is the only defendant still employed by the hospital. (AUSAs Connelly and Stetler)

CETA Program

Fraud in the CETA program takes two forms. One type of fraud involves the diversion or misuse of CETA funds; the other involves the charging of illegal fees from applicants for CETA jobs. Nine persons were charged in 1980 with CETA fraud. Five of those defendants were named in two indictments charging them with accepting illegal payments as public officials. They had been job counselors with the Illinois Bureau of Employment Security, which handles the hiring for Chicago area CETA programs. Jerry Mosley was convicted by a jury on one indictment and sentenced to six months work release and two years probation. At year's end he was awaiting trial on the other indictment. Elaine McCord pled guilty and was fined $1,000 and sentenced to 500 hours of public service work and three years probation. Archie Webster pled guilty and was sentenced to one year probation. Michael Hoskins and James Hayman were awaiting trial at year's end. This investigation was initiated by the Illinois Department of Law Enforcement and continued by the FBI. (AUSAs T. A. Durkin and Frese)

Of the other four defendants, one was placed in the Pre-Trial Diversion Program and three pled guilty for three unrelated schemes to defraud the program. Lawrence Stern and Frank Diaferia were each fined $1,500. Shellie Coleman was awaiting sentencing at year's end. (AUSAs Gillogly, McAllister, Podliska and Sklarsky)

Welfare and Social Security Programs

Eight former and present federal government employees were indicted for defrauding the U.S. government and the State of Illinois in that they illegally ob-

tained funds from Aid to Families with Dependent Children, Medicaid and the Food Stamp Program. They were also charged with giving false information to the Illinois Department of Public Aid about their employment and salary amounts. In addition, 16 persons were charged with providing false information to the government in order to obtain social security benefits to which they were not entitled.

Twenty of the defendants pled guilty and were sentenced to varying terms of probation or work release and/or fined. Two others were awaiting trial at year's end. One defendant was placed in the Pre-Trial Diversion Program. Charges against the remaining defendant were dismissed.

These cases were handled by Assistant U.S. Attorneys David Bohan, Antonio Curiel, James Ferguson, Cynthia Giacchetti, Robert Hackman, Douglas Miller, Jeffrey Rogers, Felipe Sanchez, Kevin Sharkey, Michael Siegel, David Stetler, Keith Syfert and William Thornton. They were supervised by William Coulson, Chief of the Criminal Receiving and Appellate Division. The investigations were conducted by agents from the FBI and the Social Security Administration.

Following are the totals of convictions for welfare or social security fraud since 1977:

Year	Persons Convicted
1977	87
1978	30
1979	3
1980	20
TOTAL	140

Circuit Breaker Program

Three persons were indicted for use of the mails in separate schemes to defraud the State of Illinois out of a total of $14,000 through submission of false claims for tax relief under the recently enacted Circuit Breaker Law, which provides property tax refunds to senior citizens and disabled persons. Marguerite Jackson was awaiting trial at year's end. Pauline Davis pled guilty and was sentenced to five months work release and two years probation. Karen Austin also pled guilty and was sentenced to 30 months imprisonment. The three cases were jointly investigated by the Postal Inspection Service, the Illinois Department of Law Enforcement and the Social Security Administration. (AUSA Stowell for Jackson; AUSA Bohan for Davis and Austin) (Indictments were returned on January 14, 1981, charging 12 more individuals with filing 140 false claims for $37,000 of Circuit Breaker tax refunds. Those cases are being handled by AUSAs Bohan and J. Sullivan.)

COMMODITY FRAUD

This office continues to be at the forefront of a nationwide crackdown on illegal activities related to commodity investments. In 1980 our attention and resources focused on the investigation of "boiler room" operations. A "boiler room" is an office filled with telephones where high-pressure sales personnel make false, deceptive and misleading sales pitches to prospective customers regarding commodity investments. The money sent by customers to the firms under investigation was not invested but rather was used to pay salaries and overhead and to provide large profits to the firms' operators.

The first conviction in the country under the 1978 law banning commodity options was that of Raymond Day, who pled guilty in this district in 1980 to operating Archaray Enterprises of New York City. That company bilked approximately 250 customers in 41 states out of more than $3.8 million. Day was sentenced to four years imprisonment and five years probation. (AUSA Senderowitz)

Two more indictments were returned in this district in 1980 as a result of the investigation. Bobby J. Howell and John Daniel Sledd were charged in connection with their operation at Jefferson National Investment Corporation of Clearwater, Florida. They allegedly obtained more than $1 million in investments from about 145 clients in 20 states. Both defendants were awaiting trial at year's end. (AUSA Kolman)

Four persons were indicted for participation in the New York firm of Morgan & Smith Commodities, Ltd. That company allegedly obtained $624,000 from 51 clients. The defendants in that case are Ziky Smith, Grantley Riley, Hector Rosario and Peter Sharpe. They are awaiting trial. (AUSAs Meyers and Stowell)

Both Jefferson National and Morgan & Smith are now in receivership and their assets have been frozen by the Commodity Futures Trading Commission (CFTC). The CFTC also froze the assets of First Guaranty Metals. Records of that company and of another, E.K. Capital, were seized pursuant to search

warrants issued in conjunction with criminal investigations in this district. (AUSAs Gillogly, Williams and Zitek for E.K. Capital; AUSAs Hosteny and Kolman for First Guaranty)

The investigation of these companies and others is continuing and is being conducted by the Chicago, New York and Miami FBI offices with the assistance of the CFTC.

In another commodity case, *United States v. Siegel, et al.*, the president and the secretary-treasurer of one of the largest firms on the Chicago Mercantile Exchange were convicted by a jury for conspiracy, tax fraud and illegal commodity trading on the International Monetary Market. Joseph Siegel and Alvin Winograd were found to have engaged in rigged Mexican peso futures trading in 1974 and 1975 for a client. The trading involved no-risk transactions known as tax straddles, in which losses are taken during one year while gains are made in the next for tax purposes. The scheme enabled the client to claim more than $1.5 million in additional tax deductions creating a tax saving of more than $800,000.

Siegel was fined $500,000, placed on three years probation and barred from trading for himself or others for one year. Winograd was fined $10,000, placed on three years probation and barred from trading for six months. This investigation was conducted by agents of the Internal Revenue Service. (AUSAs Lassar and Senderowitz)

ARSON FOR PROFIT

The City of Chicago has, in recent years, experienced a virtual epidemic of arson. But statistics for 1980 show damage from arson was less than had been predicted for the year. This trend coincides with an intensified effort by law enforcement agencies aimed at combatting arson and arson-related crimes. As part of that effort, representatives of local, state and federal agencies, private citizens and insurance industry representatives formed the Coordinating Council on Arson for Profit. The United States Attorney's Office is a member of that Council, represented by Assistant U.S. Attorney Joan Safford.

Because federal law enforcement agencies have greater resources to devote to white collar crime investigations than state or local agencies, the emphasis in this office has been on investigation of arson for profit schemes. In those schemes, it is frequently the case that only the arsonist himself has direct knowledge of the involvement of the property owner. The prosecutor may have to rely on a paper trail of circumstantial evidence implicating the owner in the burning of the property. This evidence problem makes these cases difficult to prosecute successfully.

Despite this obstacle, we are encouraged by our results. We acknowledge the special efforts of the ATF's Arson Squad, the Chicago Police Department's Bomb and Arson Squad, the Cook County State's Attorney's Office and the FBI's Arson Squad.

To enhance the effectiveness of the United States Attorney's Office in prosecuting arson-related cases, an arson unit was formed within the Criminal Litigation Division in 1980. All arson investigations and trials are assigned to the unit's six Assistant U.S. Attorneys; the unit is headed by Assistant U.S. Attorney Richard Cox. In the first six months of its existence, four indictments charging nine individuals were returned. Ten to fifteen other cases were under investigation at year's end. A discussion of several cases follows.

United States v. Ladlad, et al.

In the first arson prosecution in this district brought under federal explosives statutes, a jury convicted Ana Erika Agrillo-Ladlad, owner of the now defunct United Latino Press, and one of her employees, Lawrence Fleming, for hiring a handyman, Jeffrey Bennett, to set fire to the business. Bennett pled guilty and testified at trial that he used naphtha purchased by Fleming to set the fire for $1,000 paid in advance and another $4,000 to $5,000 promised from the insurance settlement. During the federal investigation of the fire, Agrillo-Ladlad dropped a fire damage claim against a $155,000 insurance policy she held on the building. Bennett was sentenced to three years incarceration. Agrillo-Ladlad and Fleming were sentenced to four years and two years in prison, respectively. (AUSAs Safford and Thornton)

In two unrelated indictments, five persons were charged with mail fraud, conspiracy and destruction of property by means of explosives in connection with two separate arson for profit schemes. Henry Keryakes and Joseph Haddad allegedly solicited an individual to burn the Quality Food Store in West Chicago in order to collect insurance proceeds. An attempt was made to burn the store on September 17, 1978. The defendants were awaiting trial at year's end.

In the second case, Bassam Aranki, Yazeed Aranki and Nidal Dogum were charged with maliciously damaging and destroying B & N Food and Liquors in

Chicago on September 26, 1979, for the purpose of collecting on the insurance. They were awaiting trial at year's end. (AUSA Barnett)

An article on arson prepared by United States Attorney Sullivan (published in the *Chicago Sun-Times* on November 26, 1980) appears in the Appendix of this report.

INSURANCE FRAUD

Ten persons pled guilty in 1980 to charges stemming from three different schemes to defraud insurance companies, all uncovered by agents from the Postal Inspection Service. In the first case *United States v. Kriv, et al.*, a Chicago attorney and a doctor were convicted of mail fraud and both received jail terms. Attorney Harold Kriv admitted submitting false and inflated claims to several insurance companies for injuries allegedly received by his clients in automobile accidents. He was assisted in doing this by Dr. Edwin K. McDonald. Kriv was sentenced to one year in jail and fined $5,000. McDonald was sentenced to 30 days work release and fined $5,000. (AUSAs Atkins and Rafferty)

In *United States v. Burke, et al.*, the defendants pled guilty to defrauding the Farmers Insurance Group out of more than $220,000. Joel Lattanzio, David Wagge and James Maes were employed by Farmers as insurance adjusters during the course of the scheme. Timothy Burke was an adjuster with Farmers in 1977. The defendants obtained fraudulent insurance checks, forged the payees' endorsements and deposited the checks in several bank accounts in Burke's name. The money was later withdrawn for the defendants' personal use. Wagge, a Berwyn police officer at the time he was indicted, and Maes were sentenced to three years probation and fined $2,000. Janet L. Gilson was sentenced to five years probation. Lattanzio was sentenced to 30 days work release and five years probation. Burke was sentenced to 30 days work release and five years probation. All but Wagge were ordered to make restitution. (AUSA Connelly)

In *United States v. DiGiacomo, et al.*, three west suburban residents pled guilty to defrauding nine insurance companies through false and fraudulent claims in connection with staged accidents. The insurance companies paid the defendants approximately $60,000 on the claims between 1975 and 1978. Joseph DiGiacomo was placed on three years probation. Kathleen Morelli and Joseph Chausse were each placed on probation for four years. All three were ordered to make partial restitution. (AUSA Atkins)

NARCOTICS

Eleven persons were indicted in *United States v. Wilson, et al.*, on charges that they operated a narcotics ring which provided curbside sales of heroin and cocaine for inner city residents and suburbanites from approximately mid-1976 to 1980. Two defendants, Charles "C.W." Wilson and Harry Cannon, are charged with conducting a continuing criminal enterprise in that they headed the highly profitable organization. Wilson is also charged with failing to file federal income tax returns for 1974, 1975 and 1976. This investigation was coordinated by the Chicago Police Department, the Drug Enforcement Administration and the Internal Revenue Service. (AUSAs Rafferty, Rogers and Schweitzer) A civil complaint also was filed by this office seeking the forfeiture of 64 automobiles thought to have been purchased with income from the drug trade. (AUSA Walsh)

The same group of agencies cooperated in a similar investigative effort in 1979 to smash one of the largest heroin distribution rings then operating in Chicago. The leaders of that ring, Green D. Smith and Milton Kelly, Jr., were sentenced in 1980 to 20 and 15 years in prison, respectively, as a result of their convictions. Three other defendants were given prison terms of up to five years. Six defendants were sentenced to terms of probation for their participation in the multi-million dollar street operation on Chicago's West Side. These were the first convictions in this district under the new statute charging participation in a continuing criminal enterprise. (AUSAs Cox, Schweitzer and Williams)

United States v. Theodorou, et al.

Andrew Theodorou and 12 others were indicted in connection with an alleged conspiracy to import seven and a half tons of marijuana valued at $6 million from Colombia and Mexico to Chicago between 1972 and 1979 using an ocean going trawler, aircraft and several trucks. Theodorou, a former Chicago public high school teacher, is charged with operating a continuing criminal enterprise to import and distribute marijuana and cocaine in that period, as well as making false statements to a bank in applying for a $35,000 bank loan and failing to file federal income tax returns for 1977 and 1978. Defendant John Kachiroubas is charged with lying to DEA agents investigating the

case. The other 11 defendants are charged with conspiracy, distribution, possession or importation of marijuana.

Charles Goldsand, Albert Greenberg, Harold Siegel and Kachiroubas pled guilty and were awaiting sentencing at year's end. (Theodorou, James Basil, Ronald Dole, Norbert Konor and Bruce Turner pled guilty on January 19, 1981, after two weeks of trial testimony.) Ted Johnston, whose case was severed from the others, was awaiting trial at year's end. Jose Guadalupe Gutierrez-Sanchez died in a Mexican prison. Charles Lackey and Ricardo Islas were fugitives.

Theodorou was indicted a second time in 1980 after he was arrested in his home for allegedly selling cocaine to a government informant. He was charged with possession with intent to distribute cocaine, distribution, and use of the telephone in connection with the transaction. He was awaiting trial at year's end on those charges. (AUSAs Atkins, Bohan, Hosteny and Williams)

United States v. Springer, et al.

Six persons were convicted of conspiracy and four of manufacturing PCP ("angel dust") following raids in three North Shore suburbs. The raids netted an estimated $1 million in PCP and 250 pounds of chemical ingredients, enough to produce a quantity of the drug with a street value of $22 million. At the conclusion of a two-week jury trial, five defendants were found guilty of operating one of the largest PCP laboratories in this district. Wayne F. Springer, the chemist, was sentenced to 10 years in prison, followed by 10 years special parole and a $30,000 fine. Philip J. Celano was sentenced to eight years imprisonment, 10 years special parole and a $30,000 fine. James Witz was sentenced to five years in prison, and his brother, John, was sentenced to three years. Nimrod Solomon, now deceased, was sentenced to four years imprisonment. Chalmers Smith, who was a fugitive at the time of the trial, pled guilty and was sentenced to five years imprisonment, to be served consecutively to a two-year sentence for his conviction in this district for defrauding an elderly woman out of her savings by impersonating an FBI agent. (AUSAs Gillogly and Safford)

United States v. Vargas, et al.

Jose Arturo Vargas was sentenced to 15 years in prison and 20 years special parole for conspiracy and possession with intent to distribute 26.5 pounds of heroin. Extensive surveillance by agents from the DEA resulted in the seizure of the multi-million dollar supply of Mexican heroin from a pickup truck, in which they also found $101,000 in foil-wrapped cash bundles. The agents observed Vargas placing the heroin and money in secret compartments inside the truck's two gas tanks. Vargas also had been seen in possession of several cars also found to be specially rigged with hidden compartments for transporting narcotics. He was fined $25,000 in addition to the prison term. The driver and owner of the truck, Francisco Gonzalez-Hernandez, was convicted in 1979 and sentenced to six years imprisonment for the same charges. (AUSAs Hartzler, Safford and J. Sullivan)

United States v. Bastanipour

An accountant was indicted for importing and possession with intent to distribute almost nine pounds of 82 percent pure heroin, a very rare, high quality grade of heroin. According to the indictment, Mohammad Ali Bastanipour had just arrived at O'Hare Airport from Iran when Customs agents found the heroin in 20 cans labeled as Iranian caviar. Bastanipour also is charged with making a false statement on his Customs Declaration Form by claiming the heroin as caviar. He was awaiting trial at year's end. (AUSAs Hosteny and J. Sullivan)

United States v. Udziela, et al.

Two men were convicted by a jury and two others pled guilty to charges stemming from one of the largest seizures of street-ready PCP ("angel dust") in the Midwest. The three million doses of the hallucinogenic drug had a street value of $6 million. Edward Udziela was sentenced to 18 months in prison, four years special parole and four years probation. Ramon Larson was sentenced to six months work release and four and a half years probation. Bruce Nacker, the group's chemist, and Paul Udziela pled guilty to manufacturing the drug. They were both sentenced under the Young Adult Offenders Act to a prison term of up to four years. This case was investigated by agents from the Clandestine Laboratory Group of the DEA. (AUSAs Hedrick and Turow)

United States v. Bounos, et al.

Fifteen people were indicted on charges of conspiracy in connection with a multimillion-dollar-a-year cocaine distribution ring which operated in the west and southwest suburbs of Chicago from August 1977 to May 1979. According to the indictment, the

defendants, under the supervision of Michael A. Bounos, imported cocaine from Colombia and resold it in the United States. In addition, the indictment charges that the conspirators attempted to obtain the release of one of the defendants, Mark Husted, who was serving a prison sentence in a Florida institution for a previous drug-related conviction. Bounos is also charged with operating a continuing criminal enterprise. Jean Marie Suquet of Colombia is a fugitive. The others are all awaiting trial.

As a result of the same investigation, Michael Bounos and three others were charged separately with conspiracy to possess and distribute cocaine. The charges stem from an incident in which Bounos, John M. Browning, Jeffrey Upton and August Manna, attempted to buy 6.6 pounds of cocaine from an undercover agent. They were arrested after showing the agent $87,000 in cash for a down payment. Browning was also charged with carrying a firearm during the commission of a felony. All four are awaiting trial on these charges as well. (AUSAs J. Sullivan and Zitek)

United States v. Steinberg, et al.

Robert Steinberg, who in 1979 was sentenced in this district to six months work release for smuggling three and a half tons of marijuana from Colombia, South America, was indicted in 1980 for distribution of cocaine. He was on probation at the time of his arrest. Also named in the indictment was William Adams. The defendants were awaiting trial at year's end. (AUSAs Gillogly and Giacchetti; Strike Force Attorney Shapiro)

TAXES

United States v. Scott

Former Illinois Attorney General William Scott was convicted of income tax fraud after a 10-week trial. The jury found that he willfully underreported his adjusted gross income in 1972. The evidence showed that Scott converted political contributions to his own use, secreted the money in safety deposit boxes, and financed his extensive travel and most of his personal living expenses with that converted cash. The conviction came after more than two years of investigation of Scott's finances by a grand jury and agents of the Internal Revenue Service. He was sentenced to one year and a day in prison. The case is now on appeal. (U.S. Attorney T. Sullivan; AUSAs Margolis and Turow)

Mirage Investigation

Eight tavern owners and three amusement machine vendors were convicted of tax violations as a result of the Mirage Tavern disclosures. The Mirage was a tavern operated undercover by the *Chicago Sun-Times* and the Better Government Association, which exposed a network of accountants, tax preparers and vendors in Chicago who advised tavern owners in techniques of profit-skimming to avoid taxes. The tavern owners were charged with subscribing to false tax returns or failing to file returns in that they understated the gross purchases and receipts of their businesses. Two vendors were charged with failure to report all of their business income, and a third was charged with lying to IRS agents during the investigation. Ten of the defendants pled guilty, and the eleventh was found guilty by a jury. These cases incorporated a new theory of tax fraud and required substantial preparation prior to indictment and trial.

The defendants and their sentences are as follows:

Irister Ambrose: one year and a day in prison; agreed to pay back taxes and penalties.

Andrew Raymond Bandyk: two years in prison, two years probation.

Wyatt Claxton: six months work release, two and a half years probation, $3,000 fine; agreed to pay back taxes and penalties.

Curtis Curry: five years probation with condition that he pay back taxes and penalties.

Rufus Davis, Sr.: six months imprisonment, four and a half years probation, $5,000 fine.

Arthur Gockman: five years probation.

Kermit Neeley: five years probation with condition that he pay back taxes and penalties.

Maggie Robinson: one year probation, including six weeks work release.

The investigation is continuing. (AUSAs Hedrick and Newman)

Airline Canteen Case

United States v. Henely

Walter J. Henely, the former concessions operator at Chicago's O'Hare International Airport, pled guilty to underreporting his income by more than $20,000 for 1975 as part of a profit-skimming scheme. Henely's Airline Canteen Service, Inc., operated the airport's multi-million dollar newspaper and souvenir concessions under contract with the City of Chicago until 1977. Henely admitted to the court that he had an employee set aside all Canadian bills and coins taken in

and deposit them in a special bank account, which he used for himself. He was sentenced to six months in prison and two and a half years probation and fined $5,000. (AUSAs Johnson and Streicker)

United States v. Cywan

Marvin H. Cywan faced tax fraud charges twice in 1980. In the first case he pled guilty to charges that he failed to report $136,000 on his 1973 federal income tax return. That was the amount of a kickback Cywan received from United Business Forms while he was employed as a systems analyst by a division of Bunker Ramo Corporation. He was sentenced to four months work release.

Three months later Cywan was again indicted for mail fraud and tax evasion for the years 1976, 1977 and 1978. During that time he worked as an office manager for Superior Tea and Coffee Company. Cywan allegedly received approximately $176,000 in kickbacks from Superior's suppliers, which he did not report on his tax returns. In addition, he is charged with having ordered quantities of paper through Superior and then selling the paper to another business for a personal profit. Cywan also billed the company for various goods and services purchased for his home in Northbrook. At year's end he was awaiting trial. (AUSAs Safford and Stetler)

United States v. Gasparas

Mirko Gasparas, the former chief of police for Justice, Illinois, was convicted after a jury trial of filing false tax returns for 1973 and 1974. Gasparas failed to report approximately $35,000 in income which he earned in his off-duty operation of an excavating company. He was sentenced to three years probation. (AUSAs Barnett and Coulson)

United States v. Brooks

Chicago restaurant critic Edward Robert Brooks pled guilty to income tax evasion and filing a false tax return and was sentenced to six months work release. A gourmet food expert and advertising agency owner, Brooks reported only $14,000 of income for himself and his two businesses from 1973 to 1975. In his plea agreement he admitted earning nearly $20,000 more than that (AUSAs Fisher and Podliska)

United States v. Harris

The owner of Jet Dri Waterproofing Service in Chicago pled guilty to charges that he attempted to evade nearly $100,000 in federal income taxes on more than a quarter of a million dollars of business income for 1973, 1974 and 1975. Phillip Harris concealed his ownership and tax liability by using a Jet Dri employee's return for those years to report the company's income. In addition, he substantially understated that income on the employee's return, diverting the remainder to his personal use. He was sentenced to a five-year term of probation, to include nine months of work release. He was also fined $30,000. (AUSA Fisher)

FINANCIAL CRIMES

North Point State Bank

Several persons were indicted as a result of an investigation of lending practices at the defunct North Point State Bank, Arlington Heights. Donald A. Carrara, the bank's former president, pled guilty to approving fraudulent loans totalling more than $360,000 for the benefit of one of the bank's customers, William Tedtman. Tedtman pled guilty to charges that he applied for loans in the names of persons who had no knowledge of the loans when the money was for his own use. Carrara was sentenced to three years imprisonment, and Tedtman was sentenced to one year.

James McAnally, the bank's former vice president and loan officer, was indicted for approving several fraudulent loans for Tedtman's benefit. McAnally was awaiting trial at year's end. Robert Stephenson, a friend of Tedtman's and a major bank customer, was indicted in connection with a series of loans totalling $101,000 for which he forged the names of alleged applicants. He pled guilty and was sentenced to four months work release and three years probation.

Three others pled guilty to misdemeanor charges as a result of the investigation. Edward Bourke and Edward MacCubbin, partners in one of Tedtman's companies, helped him obtain fraudulent loans. Each was sentenced to two years probation. Wayne Molozznik, a contractor who did business with Tedtman, obtained fraudulent loans under Tedtman's guidance. He also was sentenced to two years probation.

The bank was taken over in 1978 by the Federal Deposit Insurance Corporation and later became part of another Arlington Heights bank. The investigation into other transactions at the bank is continuing. (AUSA Stewart)

Rock Concerts Case

United States v. Kapp, et al.

Three promoters for the 1977 Super Bowl of Rock Concerts, held in Soldier Field, were indicted on charges they defrauded the City of Chicago, the Chicago Park District and the music groups at four concerts (Peter Frampton, Ted Nugent, Pink Floyd and Emerson, Lake and Palmer). The indictment alleges that the promoters underreported the number of tickets sold for each of the concerts held in Soldier Field, thus denying the city, the Park District and the performers their contractual shares of the box office receipts. In addition, the three are accused of writing into their contracts with the performers estimates of non-existent or substantially inflated expenses. Edward Cassin, the box office treasurer for the concert series, was charged with perjury for giving false testimony before the grand jury. The promoters indicted are Bruce Kapp, Carl Rosenbaum and Larry Rosenbaum. All four were awaiting trial at year's end. The case was investigated by agents of the Internal Revenue Service and the FBI. (AUSA Lassar)

United States v. Maza

A former trust department employee of Harris Bank and Trust Company pled guilty to charges that he embezzled $1.3 million from the bank over a 10-year period. As the result of an FBI investigation, Jerry R. Maza was charged with falsifying bank records to generate checks made out to bank customers purportedly to cover the redemption of the customers' shares of preferred stock of the Natural Gas Pipeline Company of America. More than 1,000 checks were forwarded to Maza, who forged endorsements and deposited them in an account at another bank, using the proceeds to cover his own gambling debts. Maza was sentenced to six years incarceration and five years probation. (AUSA Coulson)

United States v. Quinlan, et al.

Edwin G. Quinlan and William H. Szesny were indicted for mail fraud and other violations for their operation of a company called Financial Navigation Group of Oak Brook, Illinois. According to the indictment the company purported to be a loan broker using a computerized borrower/lender matching service. The defendants required retainer fees to be paid in advance by clients. They then failed to obtain funding for the loans but kept the retainer fees. By misrepresenting the capability of the firm and its past success rate for funding loans, Quinlan and Szesny allegedly received approximately $200,000 in fees in less than 18 months. They were awaiting trial at year's end. The Postal Inspection Service investigated this case. (AUSA Zitek)

United States v. Lamar, et al.

Jorge Luis Lamar and Christine Lamar were indicted on wire fraud charges for operating a fraudulent bilingual investment company which advertised on Spanish-speaking radio and television programs. Operating as Chicago American Investment, Inc., the Lamars allegedly induced approximately 70 persons to invest $75,000 over three months by promising rates of return of 2.5 percent per week and 10 percent per month. According to the indictment, they obtained additional victims by briefly paying the promised interest to a few investors, causing those investors to unsuspectingly recommend the company to others. The Lamars were awaiting trial at year's end. The investigation was conducted by the FBI. (AUSA Podliska)

United States v. Nance, et al.

Two former trust officers of the Continental Illinois National Bank pled guilty to charges of misapplying bank and customer funds. F. Gaylord Nance and Richard T. Fogle invested funds entrusted to them in oil and gas exploration ventures, in return for which two companies owned by Nance and Fogle secretly received kickbacks and ownership interests in these ventures. Nance was sentenced to 30 months imprisonment, and Fogle was sentenced to 18 months imprisonment. The investigation was a joint effort of the Postal Inspection Service and the FBI. (AUSAs Reidy and Zitek)

United States v. Pavelick

The chief of security for the Regional Transporation Authority, Edward Pavelick, pled guilty in 1979 to giving false statements to several banks and to the Veterans Administration to obtain loans or loan guarantees. He was sentenced in 1980 to six months work release and five years probation. The case was investigated by the FBI. (AUSA Cook)

United States v. Christman, et al.

A senior vice president of the Colonial Bank and Trust Company was charged along with two of his business partners in a scheme to defraud the bank out of $159,000 in loans over a two-year period. George

W. Christman, the banker, pled nolo contendere and one of his partners, Robert Shumate, pled guilty to conspiring to make loans to themselves without disclosing to the bank Christman's financial interest in the loans or the true nature of the business ventures for which the loans were used. Christman was sentenced to a year and a day in prison followed by three years probation. Shumate was placed on two and a half years probation. The other partner, Ron D. Manley, was awaiting trial at year's end. (AUSA Newman)

United States v. Shuman

Barry B. Shuman pled guilty to making false statements to several banks regarding his personal finances to influence the banks in granting certain loans. Shuman obtained more than $250,000 for himself or his companies through his scheme. He was sentenced to one year in prison. This investigation was conducted by the FBI. (AUSA Zitek)

United States v. Smith

The president of a defunct aircraft sales company pled guilty to mail fraud and wire fraud in connection with a scheme to defraud the Commercial Credit Equipment Corporation of Addison, Illinois. Roger R. Smith admitted pledging airplanes he already had sold as collateral on $155,000 of loans from the credit company. He was awaiting sentencing at year's end. The FBI investigated this case. (AUSA Tarun)

United States v. Reagan

A Northbrook attorney, James L. Reagan, was indicted for taking part in a scheme to defraud Union Oil of California. He allegedly acted as the attorney for real estate transactions which resulted in the oil company losing profits and paying inflated prices in the sale and purchase of gas station properties. According to the indictment, Reagan aided a former Union Oil real estate representative, Richard Link, in swindling his employer out of $53,000 through the scheme. Reagan was awaiting trial at year's end. The investigation was conducted by the Postal Inspection Service. (AUSA Tarun)

STOLEN CHECK RINGS

Three major stolen check rings were broken up in this district with the indictment of 17 persons this year. All of these cases were investigated by the Postal Inspection Service. Five defendants pled guilty in the case of *United States v. Northcross, et al.*, in which six individuals were accused of obtaining and negotiating approximately 2,400 stolen checks totalling $460,000 over a 13-month period. Joseph Schmidt, Patricia Farris, Roy Mueller and Dennis Craig pled guilty and were awaiting sentencing at year's end. (Kenneth Loveday, who also pled guilty, died in January 1981.) Ralph Northcross was awaiting trial at year's end. (AUSAs Knuepfer and Rafferty)

Ten individuals were awaiting trial at year's end on charges stemming from a four-state conspiracy to steal, forge and cash commercial checks in *United States v. Deckard, et al.* According to the indictment, the defendants obtained blank commercial checks or counterfeited blank commercial checks. Next, they used counterfeit or stolen mail box keys to steal mail. The stolen mail was reviewed for individuals' names, bank account numbers, bank names and samples of signatures, which information was used to complete the blank checks. The defendants negotiated the checks at the payees' banks, representing themselves to be the payees. Those charged are Ivan Deckard, Salvatore Romano, Nick Florence, Ernest Lehning, Kimberly Carr, Teresa Stewart, Cynthia Lou Davies, Donna Rae James, Albert Bonaparte and Robert Lehning. (AUSAs Hosteny and Zitek)

United States v. January

Bennie January was convicted for his part in the theft and cashing of $115,000 of unemployment and public aid checks taken from a Chicago Post Office. January and two accomplices allegedly forged the payees' signatures on the checks and deposited them at a bank and a savings and loan in Zion, Illinois. After five days of trial, January pled guilty. He was sentenced to one year in prison and five years probation, and he was ordered to make restitution of $6,000. The investigation to locate his accomplices is continuing. (AUSAs Sanchez and Sharkey on trial; AUSA Hosteny on indictment)

INTERSTATE TRANSPORTATION OF STOLEN PROPERTY

United States v. O'Donnell, et al.

Bernard Francis O'Donnell and Melroy Herbert Englert pled guilty to charges of interstate transportation of $1 million worth of jewelry stolen from a store in Cherry Valley, Illinois. The two fled to Englert's home in Minnesota after the midafternoon heist, in which several store employees were bound and gagged

while the store manager was forced to empty the contents of the store's safe and display cases into a sack. (The two later pled guilty to similar charges in several other federal jurisdictions. On January 30, 1981, O'Donnell was sentenced to a total of 25 years in prison, to be served following a 10-year prison term he is currently serving in Wisconsin for another armed jewelry store robbery. Engler is awaiting sentencing in Minnesota.) (AUSA Stetler)

United States v. Lundgren, et al.

Three persons were indicted for conspiracy and possession of about $625,000 worth of stereos and CB radios which had been stolen from a railroad yard. Ronald L. Lundgren, George P. Slotwinski and Dennis L. Blust were awaiting trial at year's end. This investigation was conducted by agents of the FBI and the Customs Service. (AUSA Giacchetti)

United States v. Pearce, et al.

George Whitlock Pearce and his two sons, George Franklin and Roger, were indicted for conspiracy and possession of 33 stolen refrigerators. The appliances were in a semi-trailer that had been hijacked from the parking lot of a truck stop in South Holland, Illinois. The indictment charges that the merchandise was concealed at the Sandwich, Illinois, airport which is owned by the elder Pearce. All three were awaiting trial at year's end. The FBI investigated this case in cooperation with the Sandwich Police Department. (AUSA Giacchetti)

United States v. Poole, et al.

Four persons were convicted in connection with the theft, interstate transportation and sale of a $200,000 coin collection in the case of *United States v. Poole, et al.* Calvin Woods, Donald Bates and an accomplice stole the coin collection during the robbery of a savings and loan in California. With the help of Earnest Jean Poole and Lucille Brown they sold part of the collection in Las Vegas, Nevada, and part of it in Chicago. Woods and Bates pled guilty in California and were sentenced to prison terms for their parts in the robbery of the savings and loan and the sale of the coin collection. Brown pled guilty here and was sentenced to six months work release and three years probation. Poole was convicted in a bench trial and was placed on probation for five years. This case was investigated by the FBI. (AUSAs Hosteny and Thornton)

MISCELLANEOUS

United States v. Evans, et al.

Following a three-week jury trial, five former guards from the Stateville Correctional Center in Joliet, Illinois, were convicted of conspiracy and civil rights violations in the beating of three inmates at the prison on New Year's Day, 1979. A sixth defendant, Thomas Cundiff, pled guilty and testified at the trial against Larry Dean Evans, Dewey Rollin Kelly, Homer Ward, Michael McCray and William Snell.

The evidence showed that in the early morning of January 1, 1979, the defendants took the inmates one at a time into the shower room, where each inmate was beaten by the defendants. The verdicts came exactly two years after a New Year's Eve party at which four of the guards planned the beating. Cundiff was placed on two years probation. The remaining defendants were awaiting sentencing at year's end. During this investigation we had the full cooperation of the Illinois Department of Law Enforcement and the Department of Corrections. (AUSAs Johnson, Parkhurst and Siegel)

FALN Investigation

Eleven members of the Puerto Rican terrorist group FALN (an abbreviation of the Spanish words meaning Armed Forces for National Liberation) were indicted for seditious conspiracy, extortion, interstate transportation of stolen motor vehicles and various weapons violations. The indictment lists 13 dates in a five-year period on which the FALN allegedly planted 28 bombs at sites in the Chicago area, including government buildings, banks, stores and private office buildings. The indictment also cites the armed takeover by the FALN of the Chicago Carter-Mondale campaign headquarters in March 1980.

According to the indictment, the group conspired to maintain a bomb factory in a house in Chicago and financed its terrorist campaign for Puerto Rican independence by staging robberies.

The charges are the result of an intensive, five-year FBI investigation of the FALN. The indictment came on the heels of the successful state prosecution of 10 of the defendants for armed robbery and weapons offenses. At year's end, those 10 were serving prison terms for their state convictions and awaiting trial on the federal charges. Oscar Lopez was a fugitive.

The 10 in custody are Carlos Alberto Torres, Ida Luz Rodriguez, Alicia Rodriguez, Ricardo Jimenez,

Luis Rosa, Alfredo Mendez, Carmen Valentin, Elizam Escobar, Adolfo Matos and Dylcia Pagan (AUSAs W. Jones and Margolis)

United States v. Davis

An employee of a maintenance firm hired by the General Services Administration was convicted after a bench trial of demanding and receiving kickbacks in exchange for janitorial jobs or shift changes for employees at the Kluczynski Federal Building. Jerry Davis, the site manager for the janitorial service firm at that building, was found to have taken payments of $50 to $150 for jobs and other favorable treatment. Davis was awaiting sentencing at year's end. The investigation was conducted by the General Services Administration and the FBI. (AUSAs Giacchetti and Kent)

United States v. Posey

In the first conviction in this district under the new federal child pornography statute, Larry Posey was found guilty after a six-day jury trial. The evidence showed that Posey and two accomplices transported five girls under the age of 16 to Minnesota, Indiana and Louisiana from Illinois for purposes of prostitution. He was sentenced to a two-year prison term. The case was investigated by the FBI. (AUSAs Stowell and Williams)

United States v. Wold

A former Carpentersville police officer was convicted after a five-day jury trial for dealing in firearms without a license from 1972 to 1978. Lawrence Wold also bought parts and manufactured a number of weapons, including shotguns, rifles and handguns, in his home. He sold the guns to licensed dealers for resale and to other police officers. Wold was sentenced to three years probation with the condition that he dispose of the guns in his possession. This case was investigated by the Bureau of Alcohol, Tobacco and Firearms. (AUSAs Cox and Thornton)

CRIMINAL APPEALS

During 1980, this office successfully defended 82 of 85 appeals by convicted defendants, and prevailed in 12 of 13 appeals by the government. In addition, one case was remanded for resentencing, and 5 judgments of conviction were affirmed in part and reversed in part.

United States v. Moore, 627 F.2d 830 (7th Cir. 1980)

David N. Moore, a tax protestor, was convicted in 1979 for failure to file tax returns. Moore submitted tax forms on which he had written "none" in all the blanks calling for numerical information, except the blanks for interest and dividend income, and on which he had scratched out the verification. On appeal, Moore argued that the forms he filed were tax returns because they contained information from which a tax liability could be computed.

The Court of Appeals rejected the argument and held that the forms were not returns because the forms were not verified as true and complete. As guidance to the government in future cases, the court declared that Moore's tax forms would not constitute tax returns even if they had been verified. The court stated that the test is not whether a tax can be calculated from information on the forms, but whether purported returns demonstrate a genuine attempt by the taxpayer to disclose income accurately. (AUSA Hartzler)

Eleven appeals were resolved in 1980 following convictions in 1979 of City of Chicago electrical inspectors for extortion or attempted extortion "under color of official right" (18 U.S.C. §1951). The Court of Appeals for the Seventh Circuit affirmed all convictions. Three of those appeals presenting particularly important legal questions follow.

United States v. Price, 617 F.2d 455 (7th Cir. 1980), *cert. denied*,____S.Ct.____(1980)

Floyd Price appealed his conviction contending that his conduct did not constitute Hobbs Act extortion because the contractors were not legally entitled to the permits Price obtained for them. The Court of Appeals rejected the argument and held that if the motivation for the payment focuses on the recipient's office, the illegality of the permit is irrelevant. The court noted that inducement or coercion is not necessary to support a conviction for extortion under color of official right. The court stated that a public official's wrongful acceptance of money with the knowledge that it is paid to induce him to perform or fail to perform official functions is enough to constitute extortion under the Hobbs Act. (AUSA Giacchetti)

United States v. Glynn,____F.2d____(7th Cir. 1980)

James Glynn asserted in his appeal that the evidence failed to demonstrate a sufficient effect on interstate commerce to confer federal jurisdiction. The Court of Appeals affirmed the lower court's decision and held

that interstate commerce was affected under the depletion-of-assets theory, even though some of the victims did not expressly testify that they paid Glynn with funds from their interstate business. Since the victims paid him to remove legal obstacles to the operation of their businesses, the jury could have reasonably inferred that the moneys paid were business funds used for a business purpose. The court further held that the fact that some of the costs of the payoffs were passed on to the victims' customers did not negate the effect on commerce. (AUSA T. A. Durkin)

United States v. Rindone, 631 F.2d 491 (7th Cir. 1980)

On appeal, Frank Rindone argued that because the extortionate payment was made with FBI money, interstate commerce was not affected. The Court of Appeals upheld the lower court's decision and held that the crime of attempted extortion under the Hobbs Act is complete when a person demands a payment from a victim engaged in interstate commerce. The court found that the interstate victim's assests were "potentially depleted" by Rindone's attempted extortion. (AUSA Reidy)

United States v. Hedman, et al., 630 F.2d 1184 (7th Cir. 1980)

John Hedman, Michael Jercich, Thomas Karnick and Henry Larsen, building inspector supervisors for the City of Chicago, Bureau of New Construction, were convicted in 1978 for filing false tax returns, conspiracy and Hobbs Act extortion (18 U.S.C. §1951) for accepting more than 1,200 bribes from garage and home improvement contractors. On appeal, the defendants contended that for extortion under color of official right to exist, the defendant must induce or initiate the payment and that the payor must be entitled to the benefit obtained from the payment.

The Court of Appeals held that the government is only required to prove that a public official obtained money to which he was not entitled and which he obtained because of his official position. The court also held that the requisite effect on interstate commerce in Hobbs Act cases need not be an adverse effect. (AUSAs Johnson and Solotorovsky)

United States v. McNary, 620 F.2d 621 (7th Cir. 1980)

Jack O. McNary, the mayor of the Village of Lansing, Illinois, was convicted in 1978 on charges of racketeering (18 U.S.C. §§1961, 1962(a)) and extortion (18 U.S.C. §1951) for his receipt of more than $85,000 in payoffs from several businessmen seeking zoning changes. Evidence at trial showed that McNary used or invested a part of the racketeering income in an enterprise he owned and that he transferred approximately $103,000 from the account of that company into the account of a travel agency in which he was a 50% partner. On appeal, McNary claimed that the evidence failed to show a direct use or investment of the racketeering income in the travel agency and that the proof was therefore insufficient.

The Court of Appeals affirmed the conviction and held that there is a sufficient nexus between the racketeering activity and the interstate enterprise when racketeering income is commingled with legitimate income in a particular business and then part of the combined assets of the business are invested in the business constituting the interstate enterprise. (AUSA Gillogly)

United States v. Baskes,____F.2d____(7th Cir. 1980)

Roger Baskes, a Chicago tax attorney, was convicted by a jury in 1978 for aiding in the preparation of false tax returns. Baskes advised two clients in a tax shelter scheme in which the clients took illegal $1 million deductions on their income tax returns. He also arranged for the taxpayers to transfer the money to secret foreign trusts by way of rigged commodity trades. Judge Grady exercised his supervisory power to suppress evidence obtained from an illegal third party search and set aside the jury's guilty verdict. The government appealed.

The Court of Appeals reversed and remanded the case to the district court based on *United States v. Payner*,____U.S.____(1980). In that case the Supreme Court held that where a defendant lacks standing to challenge an illegal third party search, he may not obtain suppression of the fruits of the improper search either under the court's supervisory powers or under a due process analysis. The district court reinstated the conviction and sentenced Baskes to three years imprisonment. (AUSA Lassar)

United States v. Beck, 615 F.2d 441 (7th Cir. 1980)

Richard Beck was convicted by a jury in 1979 for aiding and abetting the export of firearms to South Africa in violation of the United States Arms Control Act. On the day set for sentencing, the trial judge entered a post-trial judgment of acquittal. The government appealed that ruling and filed an emergency motion to have Beck held on bond pending the appeal

to prevent Beck, a South African, from leaving the United States. The motion was granted.

The Court of Appeals reversed the trial court and held that the evidence was sufficient to prove all the elements of the charged offenses. The court held that the government must show beyond a reasonable doubt that the aider and abettor had the requisite guilty state of mind and that he personally committed an overt act designed to aid the commission of the offense. The court found that this standard was satisfied by the evidence at trial and, accordingly, reinstated the jury's guilty verdict. (AUSAs Cook and Turow)

United States v. Klein, 626 F.2d 22 (7th Cir. 1980)

Leonard Leroy Klein and John Warren Utter were convicted in 1979 of possession with intent to distribute cocaine. The cocaine was seized from their suitcases pursuant to a search warrant based in large measure on the positive reaction displayed by a drug--sniffing dog upon an external examination of the bags during their detention at O'Hare Airport. Detention of the suitcases was made by DEA following their receipt of information that Klein and Utter had boarded a Florida to Chicago flight in a suspicious manner, their observations of the defendants' erratic behavior on arrival in Chicago, and the two men's evasive answers to questions during a *Terry* stop. The trial court refused to suppress the cocaine on the asserted theory that detention of the suitcases was an unlawful seizure.

The Court of Appeals affirmed the trial court's denial of the motion to suppress. In its decision, the court noted that the suitcases were cloaked with Fourth Amendment protections. Nevertheless, the court concluded that detention of the bags was proper, despite the absence of probable cause to search them, if DEA agents had a reasonable suspicion to believe that they contained contraband. On the facts of this case, the court held that such a reasonable suspicion existed and that the detention of the suitcases pending further investigation was proper. The court further held that the use of canines to sniff inanimate objects for contraband does not constitute an unlawful search within the meaning of the Fourth Amendment. (AUSA Syfert)

United States v. Bulgier, 618 F.2d 472 (7th Cir. 1980), *cert. denied*,____S.Ct.____(1980)

Sandra Bulgier was charged in 1979 with unlawful possession of cocaine with intent to distribute. Airline personnel discovered cocaine in Bulgier's luggage, which had been lost, located and opened in an effort to find an address. DEA agents were called. The agents decided to replace the cocaine in the suitcase and wait for Bulgier to retrieve it, which she did a few hours later. After Bulgier left the counter with the luggage, she was arrested and the luggage was reopened without a warrant. The trial court ruled that under *United States v. Chadwick*, 433 U.S. 1 (1977) and *Arkansas v. Sanders*,____U.S.____, 99 S.Ct. 2586 (1979), the government should have obtained a search warrant before reopening the suitcase and suppressed the cocaine.

The Court of Appeals reversed the trial court's suppression order. The court held that the second search was proper without a warrant, since the agents constructively seized the cocaine when it first viewed the contraband and the seizure continued during the "controlled delivery" of the cocaine to Bulgier. (AUSA Zitek)

United States v. King, 613 F.2d 670 (7th Cir. 1980)

Alex King, Jr. a postal employee, was convicted in 1979 on four counts of making false statements on his application for Supplemental Security Income. While receiving workman's compensation payments from the Postal Service for a job-related injury, King went to a Social Security Administration (SSA) office for an eligibility interview. At that time, and on two more occasions, King read and signed forms prepared by SSA claims representatives which reflected King's statements that he was not receiving any workman's compensation and did not expect to receive any. On appeal, King argued that the forms filled out by the claims representatives were inadmissible hearsay, on the ground that the forms constituted the kind of investigative reports which may not be introduced pursuant to the public records exception (Fed.R.Evid. 803(8)).

The Court of Appeals affirmed the conviction and held that even if the records constituted investigative reports inadmissible under R. 803(8), the evidence was nonetheless properly received under R. 803(6), the business records exception, since the authors of the reports testified at trial and the evidence was clearly reliable. (AUSA Curiel)

United States v. Jimenez, 626 F.2d 39 (7th Cir. 1980)

Jane Nadia Jimenez was convicted in 1979 of possession of heroin with the intent to distribute. Jimenez had been under surveillance by the Drug Enforcement

Administration when she was seen receiving a brown paper bag in a parking lot frequented by narcotics traffickers. The agent followed her when she left and stopped her car as she neared home. She was then questioned by the agent as to what was in the trunk of her car. Jimenez responded, "You know what it is." The agent then opened her trunk and inspected the bag, which contained heroin. In 1979, the trial court suppressed Jimenez' statements, but the Court of Appeals reversed the suppression order. *United States v. Jimenez*, 602 F.2d 139 (7th Cir. 1979).

In this appeal, Jimenez contended that the bag and its contents should have been suppressed under *Arkansas v. Sanders*, 442 U.S. 753 (1979). The Court of Appeals found no Fourth Amendment violation in the warrantless search of the paper bag. The court held that *Sanders* and *United States v. Chadwick*, 433 U.S. 1 (1977), were inapplicable since, under the circumstances of this case, Jimenez lacked a sufficient expectation of privacy in the bag.

Jimenez also alleged that the indictment should have been dismissed because government agents instructed her to conceal information from her attorney, thereby interfering with the attorney–client relationship. The Court of Appeals held that although the tactics of the agents in securing defendant's cooperation were arguably inappropriate, since none of the evidence obtained through the putative impropriety was used at trial, Jimenez suffered no prejudice and her conviction was affirmed. This holding anticipated the recent decision by the Supreme Court in *United States v. Morrison*, 49 U.S.L.W. 4087 (Jan. 13, 1981). (AUSA White)

PRE-TRIAL DIVERSION

Pre-Trial Diversion is an alternative to prosecution which removes certain offenders from the traditional criminal justice process and places them into a program of community supervision and services administered by the Federal Probation Office. Participants enter into an agreement with the United States Attorney which states that those who successfully complete a period of supervision will not be prosecuted, nor will a record be made of the crime. Unsuccessful participants are returned for prosecution.

The purposes of the Pre-Trial Diversion program are: (a) prevention of further criminal activity by certain persons against whom prosecutable cases exist, (b) avoidance of a criminal record and (c) more effective use of prosecutorial and judicial resources for more serious violations and violators.

After a person is approved for diversion by the United States Attorney and his Assistants, the Pre-Trial Diversion Coordinator conducts a screening interview in each case. Upon successful completion of the interview, the case is referred to the Probation Office for an investigation of the subject's background and attitude toward supervision. When the investigation is completed, the Pre-Trial Diversion Coordinator outlines the projected treatment plan in a formal agreement based upon the recommendations of the investigative report and the Assistant United States Attorney.

Specific conditions of supervision may include restitution or community service. Services provided by the Probation Officer include employment counseling, job training, psychotherapy, psychiatric placement and drug abuse treatment.

During 1980, there were 123 referrals for Pre-Trial Diversion supervision. The supervision period may last up to twenty-four months. The referrals for 1980 related to the following types of crimes:

Postal Violations	27
Fraud	36
Bank embezzlement	30
Forgery	6
Counterfeiting	5
Narcotics	1
Other	18
	123

One hundred and forty cases were closed successfully during 1980. Five defendants violated the terms of their agreement and were returned for prosecution.

Arthur D. Ward of the Federal Probation Office continues to serve as coordinator. The program structure allows for continued inter-agency cooperation and effective processing of cases. Plans are to continue to expand the program within this district.

Affirmative and defensive litigation handled by the Civil Division involving almost every federal agency again increased in 1980. During 1979, 3,312 new cases and matters were opened. By comparison in 1980, the number of new cases and matters increased to 3,449. This number, added to the already pending cases and matters, resulted in a total of approximately 7,200 pending cases and matters. Included among the cases handled by the Civil Division attorneys were approximately 30 appeals. In spite of this ever increasing caseload, 86.5% of the judgments entered were in favor of the government.

In addition to defending agency actions, environmental, and civil rights matters, the Civil Division also handles litigation with respect to mortgage foreclosures, bankruptcy, tax liens, immigration, collections, and many other areas of the law. Highlights of the Civil Division's accomplishments during 1980 follow.

COMMERCIAL LITIGATION SECTION

The Commercial Litigation Section of the Civil Division is responsible for the collection of money which is owed to the United States as a result of the variety of activities in this district ranging from loans and mortgage foreclosures in civil cases to fines and bond forfeitures in criminal cases. Collections during 1980 exceeded $4,572,000 as illustrated in the two charts below. The first chart explains the amounts collected in civil cases during the period January 1, 1980, through December 31, 1980, and the number of cases and amount of claims pending at year's end. The source and amount collected in criminal cases during 1980 is explained in the second chart. At year's end, 530 criminal cases were pending in which collection demands exceeded a million dollars.

On December 31, 1980, 2,476 civil and criminal collection cases were pending in the Commercial Litigation Section.

CIVIL COLLECTIONS FOR 1980

Category	Amount Collected	Cases on Hand at Year's End	Amount Demanded
Settled Claims—Source:			
Veterans Administration	$ 882,559	700	$1,622,840
Health, Education & Welfare	55,855	767	631,952
Internal Revenue Service	933,551	57	
Small Business Administration	243,885	32	
Others (Army, Navy, Air Force, Federal Trade Commission, Customs Service, General Accounting Office)	106,953	390	158,869
Mortgage Foreclosure	450,232		
Penalties	358,154		
Forfeitures and Judgments (including fair market value of personalty)	1,283,693		
Totals	$4,314,882	1,946	$2,413,661

CRIMINAL COLLECTIONS FOR 1980

Category	Amount Collected
Fines	$ 222,774
Bond Forfeitures	6,670
Restitutions	28,578
Totals	$ 258,022
TOTAL COLLECTIONS—Civil and Criminal	$4,572,904

In handling cases referred for collection, this office initially attempts to contact the debtor in order to arrange a satisfactory payment schedule consistent with the debtor's ability to pay. If the debtor does not respond or refuses to pay, this office files suit in district court. In addition to the amount owed as principal, the United States seeks full payment of accrued interest charges and court costs.

ENVIRONMENTAL PROTECTION UNIT

In response to the needs of this district, as evidenced by the heightened concern over pollution problems which threaten the public health and welfare, an Environmental Protection Unit was formed in June 1980. Assistant United States Attorney Gail Ginsberg was named attorney-in-charge of civil prosecutions; Assistant United States Attorney Candace Fabri was named attorney-in-charge of criminal prosecutions. The Unit will focus on illegal discharges of polluted water, violations of air emissions standards, and the improper storage and disposal of toxic and hazardous materials under federal laws, including the Clean Water Act, the Clean Air Act, the Resource Conservation and Recovery Act, and the Toxic Substances Control Act. While the Unit is also investigating possible violations of the criminal provisions of federal pollution control statutes, the primary activity in 1980 involved litigation in the civil area.

The Unit initiated environmental litigation under legal authorities previously untested in this district. In response to the mushrooming solid waste problem, we brought two lawsuits, on behalf of the Environmental Protection Agency (EPA), under the Resource Conservation and Recovery Act (RCRA). The complaints in these cases sought to compel clean-up of hazardous waste sites on the South side of Chicago which had been discovered by EPA investigators. We anticipate additional cases under RCRA in 1981 as the result of important new EPA regulations which became effective in November 1980.

Cases brought in prior years under the federal Clean Air and Clean Water Acts were continued or concluded in 1980; we also filed new lawsuits under these statutes. A number of cases with negotiated consent decrees were brought against oil companies (Amoco, Marathon, Clark) for violations of air pollution regulations. The settlements in these cases included compliance schedules and civil penalties. This office has moved to intervene, on behalf of EPA, in litigation instituted by the State of Illinois against Commonwealth Edison Company.

This office has also attempted to improve the cooperative litigation efforts with EPA and to expedite the administrative processing time it takes for EPA's civil cases to be referred to this office. To this end, we submitted a report to the Attorney General's Advisory Committee recommending substantial changes in the civil referral system. The Committee adopted our report and submitted it to the Attorney General.

United States and The State of Indiana v. The Sanitary District of Hammond-Munster

As the result of malfunctions and deficiencies in the storm-water and sewage collection systems, the Hammond-Munster Sanitary District allegedly discharged pollutants into Lake Michigan during the summer of 1980, leading to a record number of closings of Chicago beaches. A suit, in which the State of Indiana was also a plaintiff, was filed following an investigation by the United States Environmental Protection Agency to determine the sources of pollution. The complaint was filed as a related case to two other lawsuits which have been brought to remedy the pollution which closed Chicago beaches this summer. Our complaint alleges that since approximately June 1, 1980, the sanitary district has discharged contaminated storm water from the Robertsdale pumping station at 115th and Atchison in Hammond, Indiana, into Lake Michigan. The Clean Water Act permit issued to the Hammond-Munster Sanitary District by the Indiana Stream Pollution Control Board did not authorize discharge of such contaminants into Lake Michigan from the Robertsdale station. The complaint alleged that the above activities violate the Clean Water Act and create a public nuisance. The discharge occurred in Indiana, but suit was filed in this district where the harm occurred. In an interim agreed order, the sanitary district agreed to clean up and to test their sanitary systems. (In January 1981, a second preliminary order was entered which provides for the construction of a system adequate to carry the sanitary waste and provides for the removal of excess storm water from the sanitary system.) (AUSA Ginsberg)

United States v. Outboard Marine Corporation

Discovery continues in this 1978 suit filed against Outboard Marine Corporation (OMC) of Waukegan, Illinois, to compel an environmentally acceptable remedy to the company's pollution of Waukegan Harbor and Lake Michigan caused by many years of discharges of polychlorinated biphenyls (PCB's). In addition, the court allowed this office to add Monsanto

Company as an additional defendant in the case. The amended complaint includes three counts against Monsanto and seeks a court order requiring both OMC and Monsanto to remove the polychlorinated biphenyl (PCB)–contaminated sediments from Waukegan Harbor and a tributary of Lake Michigan located on OMC property. The amended complaint alleges that Monsanto was the sole manufacturer of the PCB contaminated hydraulic fluids which OMC discharged into the Harbor and Lake Michigan, and that despite its knowledge of OMC's discharge, and the toxicity of the fluid Monsanto continued to sell the hydraulic fluid to OMC. We charge Monsanto with the creation of a nuisance, and we seek to hold Monsanto strictly liable for the damage its product has caused to federally–protected interstate waters. The filing of the amended complaint marks the first time the United States has proceeded against a manufacturer of toxic chemicals under The Rivers and Harbors Act of 1899. (AUSAs Hynes and White)

In a related case brought by OMC against the United States, OMC alleged that the federal government is responsible for cleaning up the PCB contamination of Waukegan Harbor. Summary judgment was granted to the United States on two of the three counts in this complaint. Discovery is now complete, and we are awaiting trial on the third count. In this action, OMC seeks essentially the same relief from the United States which the government seeks against OMC in *United States v. Outboard Marine Corporation*. (AUSA Hynes)

United States v. American Brick Company

In 1980 a consent decree was entered into between the United States and the American Brick Company in which American Brick agreed to pay a $50,000 fine for air pollution law violations and to clean up emissions from its Dolton, Illinois, and Munster, Indiana, plants within two years. This agreement settled a suit brought against the firm in 1978 on behalf of the U.S. Environmental Protection Agency. The decree requires American Brick to install pollution control equipment to achieve compliance with sulfur dioxide and particulate matter regulations. The decree provides for installation of the equipment at the Dolton plant according to a schedule with specific dates for pilot testing, ordering, installation of controls and final demonstration of compliance by June 5, 1982. The Company chose to suspend all operations at the Munster plant until the necessary pollution equipment is installed and compliance has been demonstrated. The decree culminates efforts by local, state and federal environmental officials to require the American Brick Company to comply with the Clean Air Act. The EPA first issued a notice of violation in 1974 which led to an administrative consent order in 1977. When compliance was not achieved as contemplated in the 1977 order, this suit was filed. (AUSA Wawzenski)

People of the State of Illinois v. Department of Energy and the Nuclear Regulatory Commission

The plaintiff sought an injunction against the Department of Energy (DOE) acquiring a commercial nuclear reactor in Morris, Illinois, for storage of nuclear fuel waste until a site–specific Environmental Impact Statement (EIS) was prepared. DOE's position was that an EIS had to be prepared prior to any acquisition but that no proposal to acquire a Morris reactor existed; therefore an EIS was not required. Based on the representation that DOE would prepare the EIS prior to any acquisition, the court dismissed the case as moot. The State appealed, arguing that the law required the preparation of an EIS now. On appeal, we argued that DOE's contemplation of acquiring Morris did not trigger the EIS preparation requirement. However, in the interest of meeting nuclear waste storage needs in the event that DOE does wish to acquire Morris, DOE has begun the EIS preparation. Accordingly, we argued that the district court's order dismissing the case as moot was proper and should be affirmed. At year's end, the decision was pending. (AUSA Needles)

FOOD AND DRUG ADMINISTRATION

This office continues to work closely with the Food and Drug Administration (FDA) in an effort to affirmatively protect consumers in the Northern District of Illinois by enforcing the standards of safety and sanitation under the Food, Drug and Cosmetic Act as those standards apply to foods, cosmetics, drugs, medical devices and biologics available for public purchase. Upon the failure of a manufacturer to comply with the statute, enforcement actions are initiated. These actions take one of three forms: seizures of products, requests for injunctions against chronic offenders and criminal prosecution.

The seizure of a food, drug, cosmetic, biologic or medical device that violates the Food, Drug and Cosmetic Act is an action taken against the actual product, not against the owner or manufacturer. Its purpose is to prevent consumption or use of the seized product. In some cases it is possible to recondition the

product so that it is no longer in violation. In those instances, the product is returned to the owner. When a product cannot be reconditioned, it is destroyed.

An injunction or restraining order is especially useful when an individual or firm has a history of repeated violations. This sanction frequently is used to prevent shipment of adulterated or misbranded food or drugs intended for human use which were prepared under insanitary conditions discovered through inspection or consumer complaints.

United States v. An Article of Food . . . Aangamik 15

In 1977, the Food and Drug Administration seized six shipments of Aangamik 15 which was sold in tablet form and promoted as Vitamin B15. The complaint alleged that the manufacturer was not in compliance with safety regulations for food additives. The manufacturer, FoodScience Laboratories, Inc., ("FoodScience"), filed a claim for the Aangamik tablets under seizure. Subsequently, the complaint was amended to add a count to restrain FoodScience from marketing their product.

This was a major case in FDA's effort to remove from the market certain substances promoted as health foods which are either of no value or potentially unsafe for consumption. In 1980 the court ruled that Aangamik 15 was an unsafe food additive and ordered that the product be condemned and destroyed and enjoined FoodScience from the sale, marketing and promotion of this and similar products. FoodScience has appealed the district court's decision. (AUSA Hynes)

CHALLENGES TO AGENCY ACTION

Defense of agency action and of federal officials constitutes the majority of the defensive litigation handled by the Civil Division. Significant cases included litigation challenging various federal statutes and regulations and defense of government officials who are sued as a result of acts performed in the course of their official duties.

Other defensive litigation may result from challenges to the legality of statutes and regulations or challenges to an agency's administration or implementation of these statutes or regulations. The federal government is one of the world's largest contractors, and this office is frequently called upon to defend the actions of agencies relating to their contractual obligations.

Additionally, there were several actions involving defense of federal agencies and federal officials charged with discrimination under Title VII of the Civil Rights Act. The defensive litigation handled by the Civil Division also included suits against the United States or its officers and agents which sought money damages for alleged negligent or wrongful acts or omissions by federal employees while acting within the scope of their employment. The following cases are significant not only for their impact on the government's statutory and contractual obligations, but because of their potential impact on the citizens of this district.

Medicare

The Medicare program provides a medical health insurance program for various groups of beneficiaries, the largest group being the elderly. This year our office successfully defended agency action in areas of provider approval and provider reimbursement. The provider is the entity which provides the medical care to the beneficiary and is usually a hospital, skilled nursing facility, or home health agency. Under the program, in most cases, reimbursement for services is not made directly to the individual beneficiary but rather to a qualified provider of the medical service.

While most suits are brought by a provider on its own status, in a unique case, *Dialysis Centers, Ltd. v. Harris, et al.*, this office defended a challenge to the approval as a provider of an End-Stage Renal Disease (ESRD) facility, by a competitor facility. In June 1978, the Medicare Act was expanded to include a comprehensive End-Stage Renal Disease program to insure that almost everyone in the country would be covered if they were medically determined to have ESRD. The Secretary makes payments to the ESRD facilities which meet the requirements that the Secretary of the Department of Health and Human Services prescribes by regulation. The Dialysis Centers, Ltd., which operates four kidney dialysis facilities in the Chicago area, challenged the Secretary's method of approval of a competitor facility. The district court dismissed the suit for lack of jurisdiction and the plaintiff has appealed. This case is fully briefed on appeal and awaiting oral argument. (AUSA Breisblatt)

In *Northlake Community Hospital v. United States*, this office successfully defended the agency action which terminated the hospital's participation in the Medicare program. Northlake alleged that the agency had violated its constitutional rights by failing to pro-

vide a pre-termination hearing. The court dismissed the suit and Northlake appealed that decision. Pursuant to an order of the Seventh Circuit, the hospital's termination has been stayed pending appeal. At year's end, appeal was pending. (AUSA Breisblatt)

Immigration and Naturalization Service

Anna and Michael Polovchak v. Michael Landon

In this case, plaintiffs sued the District Director of INS alleging due process and privacy deprivations after asylum was granted to their 13-year-old son, Walter Polovchak. The plaintiffs and their family originally emigrated from the Soviet Union to the United States and now they wish to return to the Soviet Union with their son, Walter, who has indicated his desire to remain in this country. In an unusual factual situation, this case raises the issue of the propriety of INS procedures in granting asylum requests to minors, as well as the issue of the rights of parents in making decisions on behalf of their children. The case was pending at year's end. (AUSA Needles)

Department of Housing and Urban Development

This office is currently defending eight cases brought by individual plaintiffs and neighborhood groups challenging funding by HUD of rehabilitation projects and new construction of subsidized housing units within the City of Chicago. These actions attack the approval of those housing plans under Section 8 of the Housing and Community Development Act of 1974, as amended (42 U.S.C. §1437f). This section authorizes rental subsidy payments to owners of housing who agree to construct or rehabilitate housing in which some or all of the units are available for occupancy by middle and lower income families. In each case plaintiffs have sought injunctive relief to prevent or halt construction by the private developers who are joined as defendants in these actions and to block the flow of federal moneys into the funding of these projects. The two cases summarized below are representative of these cases. The other cases are being handled by AUSAs Egan, Ginsberg, and O'Connell.

In *South East Lake View Neighbors, et al. v. HUD*, preliminary injunctive relief was denied at the close of plaintiff's case upon defendants' motion. An interlocutory appeal of this decision was taken in December 1980, is now being briefed and will be argued in February 1981. (AUSA Rigdon)

Residents of the Uptown area of Chicago filed suit in *Uptown Chicago Commission v. HUD* to prohibit the construction of a low income apartment complex in order to prevent a further concentration of low income housing in the area. This office successfully defended the agency action at an injunction hearing and a motion to dismiss the complaint is now pending. (AUSA Egan)

United States v. Winthrop Towers, et al., 628 F.2d 1028 (1980)

In this mortgage foreclosure suit, the defendant-owners of the low and moderate income housing challenged the Secretary of Housing and Urban Development's right to foreclose. The defendant owners had obtained a HUD-insured mortgage to construct the housing project. When they defaulted on their mortgage payments, HUD brought this foreclosure suit to protect its investment. The district court concluded that the Secretary's decision to foreclose was committed by law to agency discretion and therefore could not be reviewed under the Administrative Procedure Act. On appeal, the Seventh Circuit, while not totally accepting the lower court's decision that HUD had absolute discretion to foreclose the mortgage, did allow the Secretary to retain considerable discretion to foreclose in cases involving large commercial developers. While the decision did not uphold the district court's finding of absolute discretion, it did set forth certain criteria to be considered by the Secretary in foreclosing against large commercial developers. Of special note was the court's holding that HUD may consider the economic effect upon its insurance fund as well as its responsibility under the National Housing Act to provide decent housing to low and moderate income families. At year's end, the Seventh Circuit had remanded the case to the district court on the remaining issues. (AUSA Thomas)

United States of America v. Englewood Terrace Apartment, Inc.

Englewood Terrace Apartments, Inc., the owner and title holder of a large multifamily housing unit in Chicago, defaulted on its mortgage with the United States Department of Housing and Urban Development after a provisional work-out arrangement in an attempt to avoid foreclosure failed. This office instituted foreclosure proceedings to regain title to the building and property. Upon regaining title, the marshal's report of sale and distribution valued the transactions to the government's benefit at over $5,000,000. (AUSA Murray)

Social Security Administration

The Social Security program provides for many Americans their only old age pension, disability pension, and health insurance (Medicare). This office works closely with the Department of Health and Human Services to insure that the limited resources of the social security trust fund are distributed to qualified individuals. In addition, it is important that the processing of claims be efficiently and equitably handled because the recipients are frequently individuals living on marginal incomes. This year, as in past years, our office handled at both the district court and appellate court levels a myriad of challenges to the Social Security System.

Isaac Deloney, et al. v. Califano

Plaintiff filed suit on behalf of the class of individuals who apply for disability benefits under Title II of the Social Security Act seeking to impose on the Social Security Administration court-ordered time limits within which decisions as to whether to grant or deny benefits must be made. They alleged that delays in processing these disability benefit claims violated the Social Security Act, the Administrative Procedure Act and the due process clause of the Fifth Amendment of the Constitution. The court dismissed the action, holding that the delays, though undesirable, did not violate the statutory provisions or due process. (AUSA Thomas)

Title VII—Employment Discrimination

Alleged employment discrimination by federal agencies continues to add to the workload of the Civil Division. At the present time, class actions have been certified in this district against the Environmental Protection Agency, Federal Aviation Administration, Department of Health and Human Services, Department of Housing and Urban Development, the Internal Revenue Service, and the Department of Labor. This office defends federal agencies in Title VII litigation when government employees (or applicants) allege discrimination based on race, sex, physical handicap, national origin or religion in their hiring, training, promotion or assignment.

FREEDOM OF INFORMATION/ PRIVACY ACTS

The Freedom of Information Act (FOIA), originally passed in 1966, and amended in 1974, 1976, and 1978, provides that "any person" has a judicially enforceable right to access to any record in the possession of a federal agency, except as one of the Act's nine exemptions may permit withholding of the record. While FOIA has resulted in a more open government, it has also spawned many uncertainties which often lead to litigation. In 1980, this office responded to 28 Freedom of Information Act requests made to the Department of Justice. We continue to represent various federal agencies when FOIA requesters seek judicial review of agency decisions to withhold records, with 26 lawsuits being newly filed in 1980.

While FOIA allows access to everything in agency records unless exempted, the Privacy Act of 1974 gives individuals a right of access to certain records containing information about themselves. The Privacy Act also restricts disclosures agencies can make of the records to other persons and agencies without the consent of the individual.

Jackson v. Veterans Administration

Plaintiff sought $500,000 in damages for alleged unlawful disclosures of personal information about him in violation of the Privacy Act of 1974.

Plaintiff, a security guard at a Veterans Administration hospital, resigned from his job pending termination and was later hired as a police officer at another federal agency. The VA hospital director, upon learning of threats previously made by the plaintiff against a VA employee, telephoned plaintiff's current supervisor and disclosed this information. The plaintiff's employment was terminated shortly thereafter.

The issue presented was whether the admitted disclosures were prohibited by the Privacy Act. The court granted the government's motion for summary judgment. It held that even though some of the information disclosed was contained in the plaintiff's personnel file, the VA official had acquired the information independently and no violation of the Privacy Act had occurred.

This decision, in a case of first impression in this district, clearly holds that nothing in the Privacy Act prohibits a government official from providing a third party information concerning an individual acquired from personal experience or from sources other than a protected personnel record. (AUSA Gordon)

CIVIL RIGHTS ENFORCEMENT UNIT

The Civil Rights Enforcement Unit, which was formed in November 1979, continued to receive a large volume of complaints involving civil rights violations from the citizens of this district. The Unit has also been actively involved in litigation which will have a significant impact on the residents of Chicago. In addition to the suits involving the Chicago Police Department and the Chicago Board of Education, the Unit is pursuing investigations in areas involving patterns and practices of discrimination in federally funded programs, public accommodations and housing. Assistant United States Attorney Canella E. Henrichs is the Attorney in Charge of the Unit. Other Assistants in the Unit are David B. Atkins, Margaret C. Gordon, Steven A. Miller and Roderick A. Palmore.

The Unit works in cooperation with attorneys from the Civil Rights Division of the Department of Justice. Among the cases being cooperatively handled are the Chicago Police Department (CPD) employment discrimination case and the Chicago school desegregation case.

United States v. Board of Education of the City of Chicago

Following the failure of negotiations between the Department of Health, Education and Welfare (now the Department of Education) and the Chicago Board of Education to produce a desegregation plan, the Department of Health, Education and Welfare referred the matter to the Department of Justice. Through the combined efforts of the Civil Rights Division and our office, the Department of Justice filed a civil suit against the Chicago School Board and on the same day submitted a consent decree. The decree entered by the court requires desegregation of the Chicago public school system by the start of the 1981–82 school year. The agreement commits the Board of Education to start work on the desegregation plan by October 15, 1980 and to complete the plan by March 11, 1981.

The suit that was filed charged that the Chicago School Board over the years has violated the Civil Rights Act of 1964, the Fourteenth Amendment to the United States Constitution, and HEW regulations by unlawfully segregating black and Hispanic students and by assigning teachers and staff to match the race of the students in the schools. The agreement, recognizing that school boards acting along cannot relieve the segregation that exists in cities as large as Chicago, commits the Justice Department to bring about a coordinated administration of federal programs in Chicago to help create and maintain stably integrated schools. This is the first time that the federal government will enlist the efforts of a number of federal agencies to assist a school board in achieving stable desegregation.

The basic objectives of the plan are:

—To establish the greatest practicable number of stably desegregated schools.

—To desgregate all racial and ethnic groups in all age and grade levels above kindergarten.

—To insure that all racial and ethnic groups share in the burdens of desegregation.

—To provide special educational and related programs at black and Hispanic schools that remain segregated.

If the Justice Deparment and Board cannot agree on a final desegregation plan, the consent order provides that the court will resolve the dispute.

Under the agreement, the Justice Department will complete its investigation of whether the State of Illinois, suburban school districts, and suburban housing and land use laws contributed to racial segregation in the Chicago metropolitan area. Results of the investigation will be submitted to the court and the Justice Department will take whatever legal action is appropriate. This would include negotiations similar to those with the Chicago School Board. (U.S. Attorney Sullivan; AUSAs Atkins, Branding, Henrichs; Civil Rights Division Attorneys Drew S. Days III, Alexander C. Ross, James P. Turner)

Chicago Police Department Employment Discrimination Case

Work has continued on this employment discrimination case which was originally filed in 1975 against the Chicago Police Department.

The defendant's 1979 Sergeants' promotional list was found to have adverse racial impact. The district court entered an order continuing the goals (60/40 minority) from the 1976 final decree as to promotions to be made from the 1979 sergeants list. On this issue, the court allowed intervention by a class of white officers (Suess intervenors) who ranked in the top 400 positions on the promotion list, a class of women officers, the Women Police of Chicago, and the Fraternal Order of Police.

This order has been appealed by the Suess intervenors and the Fraternal Order of Police. The appeal

is currently pending before the Seventh Circuit Court of Appeals. (AUSA Henrichs and Department of Justice attorneys Cynthia Drabeck and Robert Moore)

Fair Housing Act Cases

Members of the Unit are handling investigations and prosecutions of criminal violations of the federal Fair Housing Act. The primary purpose of the investigations is the prosecution of those who through force, threat or intimidation seek to deprive citizens of their civil rights. We believe strongly in the right of every citizen to fair treatment in the housing market. We have sought to encourage and cooperate with local law enforcement officials in racially troubled areas, such as Dolton, Illinois. We have assured community organizations that we are ready and willing to take steps to end racially motivated acts directed against those seeking to exercise their right to decent housing. (AUSAs Atkins and Henrichs)

Public Accommodations

The Public Accommodations Section of the 1964 Civil Rights Act makes it unlawful for a "place of public accommodation" to discriminate based on race or national origin. Places of public accommodation under the Act include restaurants, discotheques, bars, motels and places of entertainment. In *U.S. v. Laramie Incorporated*, our office contemporaneously filed a complaint and consent decree against Laramie Incorporated, owner of a lounge named Club Laramie, 5203 W. 47th Street, Chicago, Illinois. The complaint charged that the defendant violated the Public Accommodations Section of the 1964 Civil Rights Act by refusing to serve blacks. The consent decree enjoins the defendant from future discrimination against blacks and requires that signs be posted at the entrances to Club Laramie stating that services be provided without regard to race, color or national origin.

The investigation of Club Laramie was initiated by a citizen complaint to the *Chicago Tribune's* Action Line. This complaint was forwarded to our office and investigated by the FBI. (AUSA S. Miller)

Support of Private Litigation

In accordance with the directive of the Civil Rights Division, during 1980 we supported private litigation by arguing for an implied right of action by individuals under statutes which do not expressly provide for private enforcement. That statutes that prohibit discrimination on the basis of race, sex or handicap in federally assisted programs do not specifically provide for private remedies. While federal agencies are authorized to enforce these statutes, we believe that it is essential that private individuals also have access to the federal courts as part of the remedial scheme.

In *Willie Warren Craft v. University of Illinois Medical School, et al.*, black medical students filed an action under 42 U.S.C. §§1983, 1985, 2000d (Title VI) and the Revenue Sharing Act, challenging the allegedly discriminatory administration of the federally funded "Minority Opportunity Program". Plaintiffs alleged that the administration of the program resulted in their failure to successfully complete the examination requirements for their medical degrees. The federal defendants, the Secretary of Health and Human Services and an HHS administrator filed a motion to dismiss. Additionally, we filed a brief in support of plaintiffs' right to maintain a private action against the non-federal defendants under Title VI without, however, altering the initial position that the case should be dismissed as to the federal defendants.

We are awaiting the decision of the district court on the pending motions to dismiss. (Special AUSA Jones-Mitchell)

In *David B. v. Illinois Department of Mental Health, et al*, we supported a private right of action by a guardian ad litem to sue state agencies under the Rehabilitation Act of 1973 to compel appropriate placement of retarded and emotionally disturbed youths. The district court entered its memorandum opinion which upheld a private right of action against the Illinois Department of Mental Health and Developmental Disabilities and the Illinois Department of Children and Family Services. (AUSAs Henrichs and S. Miller)

Robert L. Kendall v. United Airlines

The district court requested the United States to intervene in this Title VII action filed by a United Airlines pilot whose employment was terminated because his religious beliefs precluded his flying on Saturdays. The court ruled in plaintiff's favor, and reserved ruling on the defendant's constitutional challenge to Section 701(j) of Title VII, which requires employers to make reasonable accommodations for the religious beliefs of their employees. We filed a brief as amici curiae urging the court to uphold the constitutionality of Section 701(j). The case is pending awaiting a decision on the constitutionality of the statute. (Special AUSA Jones-Mitchell)

Persons or organizations having civil rights complaints should send them in writing to the Screening Committee, United States Attorney's Office, 219 South Dearborn Street, Chicago, Illinois 60604.

TORT LITIGATION

The Civil Division handles all actions for personal injury, property damage or wrongful death filed against the United States. During 1980, 90 suits were filed in this district pursuant to the Federal Tort Claims Act and represent over $480,000,000 in claims against 16 federal agencies.

In addition to handling the more common actions arising from automobile accidents, falls, and medical malpractice, this office also assumed a major role in handling "swine flu" cases. These cases arose from the administration of the National Swine Flu Immunization Program of 1976 (42 U.S.C. §2476(j)–(1) and involve complicated medical discovery and excessive claims for damages.

The disparate and often novel bases for tort actions filed in this district present a constant source of challenge and education to the office. Often expert witnesses such as economists, physicians and surgeons, accident reconstruction experts, engineers and other professionals are utilized to assist in the preparation and trial of these cases.

Franks v. United States, was a personal injury and property damage action involving a collision between a motorcycle and a GSA vehicle. The government's accident reconstruction expert was instrumental in assisting the court in resolving conflicting testimony as to the point of impact. The court held against the plaintiff on the issue of negligence and in favor of the government on its counterclaim for damage to the government vehicle and medical expenses of the government passengers. The court also awarded costs to the government. (AUSAs Palmore and Thomas)

Nagle v. United States was a personal injury and damage action in which a motorcyclist was injured in a collision between his vehicle and a postal truck. The court, while finding that the postal driver was negligent, was persuaded by the testimony of the government's accident reconstruction expert as against plaintiff's expert that the plaintiff was contributorily negligent and could have avoided the collision. Consequently, judgment was entered in favor of the government. (AUSAs Breisblatt and Murray)

Collins v. United States

This case was tried in December 1979, and resulted in a $200,000 judgment against the United States for alleged negligence in the medical care of an Air Force Academy cadet. The United States appealed the district court decision on the basis of the intra–military tort immunity doctrine of *Feres v. United States* under which the Supreme Court held that the United States is not liable under the Federal Tort Claims Act to servicemen for injuries incurred incident to their service.

This is a case of first impression in a Court of Appeals and presents the issue of whether service academy cadets are excluded from coverage under the Federal Tort Claims Act by the *Feres* doctrine. (The appeal was briefed during 1980 and was argued before the Seventh Circuit in January 1981.) (AUSAs Hynes and Walsh)

ADMIRALTY

There are other types of actions for personal injury and property damage which are specifically excluded from the Federal Tort Claims Act. Included in these cases are suits in admiralty. Until recently, responsibility for most suits of this nature had been retained by the Department of Justice. This year this office was delegated the responsibility for the handling of two such suits. In *Bolton v. United States*, one of three fishermen drowned when their boat capsized in front of a Corps of Engineers' dam. The administrator of the decedent's estate brought suit alleging that there was insufficient warning of a dangerous condition. The case is awaiting trial. (AUSAs Breisblatt and O'Connell)

TAX LITIGATION

The majority of civil litigation in the area of taxation, whether it be defensive (suits by taxpayers to recover alleged overpayments) or affirmative (suits by the United States to recover delinquent taxes), is handled by Tax Division attorneys from the Department of Justice. However, there are significant aspects of tax litigation which are handled directly by the Civil Division of this office.

Summons Enforcement Cases

One of the investigative tools used by the IRS in its investigation of a taxpayer's civil and/or criminal liability is an administrative summons. An IRS summons directs the person or entity summoned (an individual

taxpayer, corporation, bank, accountant, attorney or other person) to appear to give testimony and produce the information listed in the summons relating to the taxpayer's liability for the tax years in question. If the summons is directed to a third-party record keeper, such as an accountant or a bank, the IRS is required to give notice to the taxpayer. The taxpayer may then direct the third-party record keeper not to comply with the summons.

If the summons is not complied with, the IRS may request judicial enforcement of the summons through this office. In 1980, this office filed approximately 90 summons enforcement actions. Of these, the majority involved summonses issued to third-party record keepers. Cases of this type are handled in an expedited manner since any undue delay hampers the ongoing IRS investigation.

Writs of Entry

Through this procedure, the IRS is authorized to seize property in satisfaction of outstanding tax indebtedness. The majority of cases in this area involve businesses that have failed to pay employment and/or unemployment taxes on behalf of their employees. If efforts to collect the taxes through voluntary payment are unsuccessful, the IRS requests this office to obtain an order permitting IRS agents to enter premises occupied by the taxpayer in order to seize the taxpayer's property. The property seized is later sold and the proceeds are applied to reduce the outstanding tax indebtedness. Any excess proceeds of the sale are returned to the taxpayer. In 1980, approximately 70 writs of entry were obtained.

Mortgage Foreclosures

The Civil Division also represents the IRS in numerous mortgage foreclosure actions, the majority of which are filed in state court. The United States is named as a defendant in these actions by virtue of tax liens recorded against the property being foreclosed. If, upon sale of the property, there are any remaining proceeds after satisfaction of the primary indebtedness, the United States may be entitled to claim the excess. We actively pursue these cases in order to maximize recovery of funds due the Treasury.

Beverly Bank, Trustee v. United States of America, et al.

Beverly Bank, as trustee of one land and two personal trusts, determined it was holding funds which were claimed in varying amounts by fifteen different creditors and assignees of the trust beneficiaries, including, by reason of federal tax liens, the United States of America. The bank petitioned the district court for it to determine who among the claimants was entitled to the funds, and the money was deposited in the court registry for later distribution. Upon review of the multiple answers, cross-claims and summary judgment motions, the court determined in three separate opinions that the federal tax liens were superior to all other claims. The court entered an order directing the clerk of court to turn over to the United States the entire sum of $295,585.72 in satisfaction of the federal tax liabilities of the trust beneficiaries. (AUSA Murray)

FORFEITURES

A portion of the Civil Division's affirmative litigation deals with forfeiture of property to the government. Forfeiture cases are usually referred to this office in two situations. First, the property itself may be contraband. These cases usually involve the seizure of inherently illegal property such as pornography, certain firearms or gambling devices. Second, property which is used to transport contraband is subject to forfeiture. The bulk of our cases deal with vehicles such as automobiles and airplanes which have been used to transport narcotics or other contraband.

During the last year we have filed several forfeiture actions under a recently amended section of the Controlled Substances Act which was designed to take some of the profit out of illicit drug trafficking. Section 881(a)(6) of Title 21, United States Code, makes money and other things of value used in an illegal drug transaction forfeitable to the United States. Proceeds of illegal drug transactions are forfeitable as well. The value of the assets we have seized under this section in the last year exceeds $500,000. In one case, *United States v. 64 Various Vehicles*, (AUSA Walsh) we filed suit against vehicles allegedly purchased by the ringleaders of a heroin and cocaine sales organization. For a discussion of the criminal case, see *United States v. Wilson*, page 16 of this report. This case and others are an effort by this office to coordinate civil remedies with criminal prosecution in order to more effectively discourage illegal drug traffic.

In a unique category, *United States v. Miscellaneous Sound Recording Titles* was a forfeiture action based on a violation of the copyright laws. This office sought forfeiture of over $1 million worth of recording equipment seized in conjunction with a criminal charge

against Mark and Barry Berkwitt. The Berkwitts were convicted of making "pirated" versions of eight-track tapes and selling them as originals. With the exception of one piece of equipment, judgment was entered in favor of the government. (AUSA Wawzenski)

CHALLENGE TO DRAFT REGISTRATION

By Presidential Proclamation 4771 dated July 2, 1980, registration for the draft under the Military Selective Service Act was reinstituted for 19- and 20-year-old males. The first court challenge to the renewed draft registration based upon age came in this district with the filing of *Kevin Bowen v. Bernard Rostker, Director, Selective Service System*. The suit, styled as a class action, sought to halt the draft registration on the grounds 19- and 20-year-olds were being denied equal treatment guaranteed by the Constitution because 18-year-olds and 22- to 26-year-olds were not required to register under the Presidential Proclamation, even though the Military Selective Service Act makes all males between ages 18 and 26 eligible for the draft.

Presented with the question on the eve of the required draft registration, the district court heard lengthy oral argument and rendered an immediate decision that the draft registration should go forward. The court concluded the President had acted reasonably in calling for partial registration from within the eligible pool, consistent with the moneys appropriated by Congress and administrative capabilities to handle the registration. The court also believed the order to register was an executive act of independent foreign policy significance, hence concern for the nation's military capability outweighed any harm plaintiff might suffer by registering for the draft.(AUSA Murray)

MISCELLANEOUS

Alliance to End Repression v. City of Chicago
American Civil Liberties Union v. City of Chicago

The named plaintiffs in these class actions sued, among others, the United States Department of Justice, the Federal Bureau of Investigation, the Central Intelligence Agency, the Secretary of Defense and various officers of those federal agencies. The plaintiffs alleged that the defendants, including these federal defendants, illegally surveilled them, unlawfully collected information about them, and otherwise disrupted their lawful activities. The plaintiffs sought a declaration that the practices were illegal and an injunction seeking to have such practices terminated.

In 1980, the plaintiffs, the Justice Department, the FBI and the CIA agreed to settle the plaintiffs' claims against these federal agencies and their employees. In the agreement, the FBI admitted certain conduct on prior occasions which today would not be lawful and would be contrary to the FBI's current guidelines. The FBI and CIA agreed to comply with the Constitution, and all applicable laws and regulations. The district court preliminarily approved this settlement and ordered a public hearing in February 1981 to determine whether the settlement is fair and reasonable. At year's end, the cases remained pending as to the Secretary of Defense and the City of Chicago. (AUSA Moran; Department of Justice attorney J. Charles Kruse)

In Re: William E. Crawford and Clara V. Crawford

In order to foreclose on a defaulted VA mortgage, the Veterans Administration in this case attempted to lift the automatic stay imposed on all creditors, including mortgagees, when a debtor has declared bankruptcy pursuant to Chapter 13. Prior to this case, whenever the VA or any other mortgagee attempted to lift the stay for mortgage foreclosure purposes, the debtor's attorney was able to delay the procedure, thereby allowing the debtor to live rent free for long periods of time. As a result of this opinion, the government can now promptly foreclose on defaulted mortgages even though the debtor has declared bankruptcy. (AUSAs Egan and S. Miller)

Hampton, et al. v. Hanrahan, et al.

On April 23, 1979, the Seventh Circuit Court of Appeals reversed the directed verdicts in favor of the defendants in *Hampton, et al. v. Hanrahan, et al.*, 600 F.2d 600 (7th Cir. 1979). Following the denial of certiorari by the Supreme Court, the case was remanded for a new trial.

The suit was filed following the well-publicized incident involving Chicago police at the Black Panther Party headquarters in December 1969, which resulted in the deaths of Fred Hampton and Mark Clark. The complaint alleges that a conspiracy to violate the civil rights of the occupants existed among various city, county and federal officials. This office represents one current and two former agents of the FBI.

At the end of 1980, the district court was considering plaintiffs' motion to add several new federal defendants. (AUSAs Barnett, Branding and Grueneberg)

United States v. DIK Drug Co.

This case appears to be the first in this district in which a drug wholesaler was sued for violating the security and record keeping requirements of the Controlled Substances Act. Those provisions of the Act were designed to discourage theft of prescription drugs from wholesalers, to alert wholesalers to thefts that do occur as soon as possible and to make wholesalers accountable for their drugs so that diversion of prescription drugs into the illicit market can be detected by federal investigators. This action was settled upon the payment by DIK Drug Co. of a $15,000 penalty and an agreement to adopt better security measures and to keep proper records. (AUSA Walsh)

United States v. The National Provisioner, Inc.

As part of an investigation into alleged price fixing in the meat packing and processing industry, the Department of Agriculture subpoenaed the *Provisioner* for records and reporters' notes of the "Yellow Sheet." The "Yellow Sheet," a trade journal published daily by the *National Provisioner*, contains the most current wholesale meat prices. The *Provisioner* resisted the subpoena on First Amendment grounds and the USDA referred the matter to this office seeking judicial enforcement of the subpoena. Both parties agreed to a consent decree which required turning over the information sought. Shortly after the decree was entered, the Federal Trade Commission independently issued its own subpoena. The *Provisioner* returned to the court and attempted to vacate the decree. The court refused to vacate the decree and subsequently this ruling was affirmed by the Seventh Circuit. (AUSAs Egan and Grueneberg)

United States v. Professional Air Traffic Controllers Organization, et al.

The Federal Aviation Administration brought this suit against the Professional Air Traffic Controllers Organization (PATCO) seeking a permanent injunction against any strikes by air traffic controllers. The suit charged that PATCO members took part in a slowdown in the handling of flights at O'Hare International Airport. The suit was the first by the government against a federal union for engaging in a strike. PATCO later countersued, charging that FAA procedures, if followed to the letter, would cause delays. The court dismissed the suit ruling that the matter was a simple labor dispute that should be handled by the Federal Labor Relations Authority, an agency created to deal with labor disputes involving federal government workers. The court later dismissed the countersuit, ruling that the federal courts lacked jurisdiction over the case. This office has appealed the district court's dismissal and is currently preparing its brief to be filed with the Seventh Circuit Court of Appeals. (AUSAs Branding and Wawzenski)

THE FRANK WALUS CITIZENSHIP CASE

United States v. Walus

On November 26, 1980, the following statement was released by United States Attorney Thomas P. Sullivan and Allan A. Ryan, Jr., Director, Office of Special Investigations, United States Department of Justice:

"In January, 1977, the United States charged Frank Walus with having been a member of the Gestapo during World War II and with having misrepresented that fact when he applied for immigration and naturalization, and it sought revocation of his citizenship. Following trial, the United States District Court for the Northern District of Illinois entered judgment for the government and ordered the defendant's citizenship revoked. On defendant's appeal, the United States Court of Appeals for the Seventh Circuit held that certain newly discovered evidence advanced by the defendant following his trial cast some doubt on the district court's verdict, and it vacated the judgment and remanded the case to the district court for possible retrial.

"Following that decision, on February 13, 1980, Allan A. Ryan, Jr., Director of the Office of Special Investigations, ordered that a thorough re-investigation of defendant's activities during World War II be conducted by that Office, and that no decision on whether to retry the defendant be made until that re-investigation was concluded. That re-investigation is now complete, and we have decided, with the concurrence of the Assistant Attorney General, Criminal Division, not to retry the defendant. Our reasons for that decision follow.

"The government's evidence against the defendant consisted primarily of the testimony of several survivors of the ghettos of Czestochowa and Kielce, Poland. Those witnesses identified defendant as a member of the Gestapo who committed acts of persecution in those places. In addition, four acquaintances of defendant testified that, in recent years, defendant had described to them his activities on behalf of the Nazis during the war.

"The defendant's testimony was that he had been pressed into service by the Germans shortly after the invasion of Poland, that he had been sent to various farms in the vicinity of Ulm, Germany, some 800 miles from Czestochowa and Kielce, and that he had spent the war years there. At trial, he supported this defense with the testimony of farmers from the Ulm area and by documentary evidence from the Allgemeine Ortskrankenkasse (AOK), the German health insurance administration, allegedly demonstrating that payments had been made on his behalf throughout the war by German farmers.

"As the district court noted, the evidence of defendant's wartime activities was thus in direct conflict. The district court found, on balance, that the government's evidence was more probative and indeed constituted clear and convincing evidence against the defendant.

"The Court of Appeals, while not directly disagreeing with this conclusion, noted the existence of evidence first discovered by Walus after the trial, which consisted of additional documentary evidence and the affidavits of eight persons stating that Walus had been in the Ulm, Germany, area during the war years. The Court of Appeals concluded that this evidence, considered in the light of all the evidence adduced at trial by both sides, required that the judgment be vacated and that a new trial be held if warranted.

"The decision to conduct a thorough re-investigation of this case following the Court of Appeals' decision was based on a simple concern. If Walus had been a member of the Gestapo, OSI wanted more evidence of that involvement before proceeding with a retrial. If, on the other hand, he had indeed been a farm worker during those years—a possibility that could not be excluded based on the evidence discussed by the Court of Appeals—it was incumbent on the United States not to pursue its prosecution.

"The Office of Special Investigations, which was established while this case was under submission to the Court of Appeals, mounted a careful and thorough re-investigation following the Court of Appeals' decision. In that connection, the Office's Deputy Director for Investigations, together with an investigator fluent in German, spent several days interviewing witnesses in the area where Walus claimed to have spent the war. Some of those witnesses confirmed that they had seen Walus working on farms in the vicinity from 1941 to 1945. Two of the witnesses had themselves been forced laborers: one was a French POW who had married a local woman after the war; the other was a Polish laborer who had been deported from Poland by the Germans, but who remained in Germany when the war ended. The OSI investigators also examined recently discovered documents which supported Walus' alibi, including a residence permit with his photograph attached, and correspondence from the labor office at Neu Ulm indicating Walus' status as an agricultural worker. In addition, the AOK records were submitted to an independent document analyst, who concluded after careful examination, including dating and handwriting analysis, that they were genuine.

"With the full cooperation of the Polish Main Commission for the Investigation of Hitlerite Crimes, OSI sent a Polish-speaking researcher to review the holdings of the Main Commission's archives, which contain records from the cities in which Walus was accused of being a Gestapo agent. The researcher, working with the Commission's archivists, found no evidence linking Walus with the Gestapo or indicating that he had been in Poland during the German occupation. At the request of OSI, the Commission undertook additional investigation involving searches for witnesses and reviews of regional archives. These results were negative. Ryan recently returned from an extensive meeting with the Director of that Commission, in which was discussed, among other things, the joint investigation of this case. It was his conclusion, in which Ryan joined, that every available source of evidence in Poland had been thoroughly examined, and that no reliable indication of Walus' presence in Poland during the war could be found in that country.

"Meanwhile, in the United States, dozens of former residents of Kielce and Czestochowa were shown photospreads in which Walus' picture was included, but the results were again negative. Experts familiar with the organization of the Gestapo in Poland were consulted to ensure that all available sources of information were checked. With their help, OSI searched the National Archives and approximately twenty other institutions, public and private, in several countries, containing records of Nazi activity in Poland. These efforts likewise failed to produce any indication that Walus had remained in Poland during the war.

"In addition to these efforts, we carefully reviewed the testimony of the government witnesses in the original trial, and OSI attorneys personally re-interviewed many of them.

"Thus, since the Court of Appeals determined in February that Walus was entitled to a new trial, we have pursued two distinct but complementary lines of investigation: first, we have carefully re-examined the ex-

isting evidence, both prosecution and defense; second, we have searched extensively for new evidence that would shed further light on the truth.

"We have thoroughly reviewed the evidence, both old and new. In doing so, we have reached several conclusions. First, we have no doubt that the witnesses who testified on behalf of the government—the survivors of the Nazi persecutions of Czestochowa and Kielce—testified sincerely and honestly. Second, the defendant freely recounted to acquaintances and coworkers on several occasions that he had been a Nazi agent and had committed acts of violence on innocent and defenseless Jews. Although he later denied such admissions, the law has traditionally and properly accorded such admissions significant weight, and indeed the district court found these statements critical to its decision.

"On the other hand, the striking absence of corroborating evidence despite a lengthy and exhaustive investigation—and indeed the undeniable weight of evidence tending to indicate that Walus spent the war years as a farm worker in Germany—compels the conclusion that we could not responsibly go forward with a retrial. Nearly forty years ago, the Supreme Court of the United States held that the precious right of American citizenship could not be revoked unless the evidence justifying revocation was clear and convincing. In this case, the evidence plainly falls short of that standard. Under the circumstances, the choice is clear. The prosecution is over, and we have so informed the court. We will reimburse Mr. Walus for costs as authorized by law.

"While we have no doubt that this litigation was instituted and prosecuted in good faith, we recognize that it has been a difficult experience for Mr. Walus. It is the responsibility of the United States not only to prosecute the guilty but to take special care that the processes of the law not be brought to bear against those who are not guilty. In terminating this litigation, we are mindful of that duty. We regret that these newly discovered facts were not known before this point, and we join in expressing that regret to Mr. Walus."

On November 26, 1980 District Judge Prentice H. Marshall entered the following order:

"In January, 1977, the United States of America commenced this action against the defendant, Frank Walus, a/k/a Franciszek Walus, seeking to revoke defendant's United States citizenship under 8 U.S.C. §1451(a). The gravamen of the Government's action was defendant's alleged membership in the German Gestapo, Schutzstaffeln (SS), or other similar organization, the commission of atrocities in Kielce and Czestochowa, Poland, and failure to disclose those facts during the naturalization process which culminated in his United States citizenship. The defendant was tried on the charges without a jury before another judge of this court who found against the defendant on each count and entered judgment revoking defendant's citizenship. *United States v. Walus*, 453 F. Supp. 699 (N.D. Ill. 1978). Defendant's post-trial motions, including two motions for a new trial upon the grounds of newly discovered evidence, were denied.

"On appeal the Court of Appeals for this circuit set aside the judgment and remanded the case for a new trial upon the ground that the district court had erred in denying defendant's post-trial motions based upon newly discovered evidence made under Rule 60(b), F.R.Civ.P. The Court of Appeals stated that, "the Government's case was sufficiently weak, particularly as to impeachment of the defendant's documentary evidence, that the newly-discovered evidence would almost certainly compel a different result in the event of a new trial." *United States v. Walus*, 616 F.2d 283, 287 (7th Cir. 1980)

"Following remand, the Government conducted an exhaustive investigation of the defendant's new evidence. The Government has stated in conference that the investigation establishes the credibility and reliability of defendant's evidence which in turn corroborates evidence given by and adduced by defendant during the first trial, all of which in turn exonerates defendant of all of the charges made against him. Consequently the Government has requested that the ac-

tion be dismissed with prejudice, i.e. by the entry of a judgment in favor of the defendant and against the Government and with the defendant to have judgment for his costs.

"This case demonstrates the human fallibility of the trial process and the continuing need for a careful and vigilant system of review of trial court decisions. But for the painstaking review given this case by the Court of Appeals the defendant would have been stripped of his United States citizenship.

"In addition, the case is a manifestation of a worthy and courageous Government and its servants who are able and willing to investigate evidence favorable to an accused and to reexamine and withdraw charges made against an accused which are unsupported by the evidence.

"In granting the Government's motion we do not forget the abominable atrocities inflicted at the hands of the Nazis on those and the families of those who testified against the defendant. But those outrages cannot be undone and certainly not by an unjust conviction of the defendant. Indeed, we are confident that those who survived the atrocities and seek vindication in the memory of those who did not would not want their honor stained by a conviction which could not withstand careful dispassionate scrutiny.

"The motion of the Government to dismiss the action with prejudice is granted. A general finding will be entered in favor of the defendant and against the plaintiff. Judgment will enter in favor of the defendant Frank Walus, a/k/a Franciszek Walus, and against the plaintiff, The United States of America, and defendant shall have judgment for his costs."

The Chicago Strike Force is independent of, but works in cooperation with the United States Attorney's office. It is under the direction of the Organized Crime and Racketeering Section of the Criminal Division of the Department of Justice. The Strike Force concentrates its efforts on combating organized crime. Under the supervision of Attorney in Charge, Douglas P. Roller, the Strike Force is responsible for the investigation and prosecution of organized crime activities in the states of Illinois, Wisconsin, Minnesota and Indiana.

Among the cases successfully prosecuted by Strike Force during the past year are the following:

United States v. Zampella

Frank Zampella was sentenced to three years imprisonment following conviction by a jury on charges of possession and interstate transportation of $2 million in stolen Oakland Cement Company (OKC) stock certificates. Zampella's is the fourth conviction obtained in the investigation of the theft which occurred in 1975 at John F. Kennedy International Airport in New York City. (Attorney Roller)

United States v. Inendino, et al.

Following a two week jury trial, Nick Keller was convicted of conspiring to conduct the affairs of an enterprise (a loan-sharking business) through the collection of unlawful debts in violation of 18 U.S.C. §1962. Co-defendants James Inendino, Sam Inendino, Frank Butera and Gregory Emmet Paloian pled guilty to the charges during the first day of the trial.

Keller was sentenced to three years imprisonment. James Inendino was sentenced to five years incarceration, the sentence to run consecutively to the twenty-five year sentence Inendino is serving as a Dangerous Special Offender. Sam Inendino and Gregory Paloian were each sentenced to six months incarceration, to be followed by four and one half years probation. Frank Butera was sentenced to one year imprisonment to be followed by five years probation on a second count involving a substantive violation of 18 U.S.C. §894 (collection of extensions of credit by extortionate means). The court recommended that the Bureau of Prisons allow defendants Sam Inendino, Paloian and Butera to serve their sentences while on work release. (Attorneys Johnson and Lowrie)

United States v. Herrmann

William H. Herrmann pled guilty to charges of the receipt of stolen property (18 U.S.C. §2315). Over $2 million in stolen money orders were seized at the time Herrmann was arrested while he was in the midst of selling the money orders to undercover FBI agents. Herrmann was sentenced to five years probation. (Attorney Shapiro)

In The Matter of the Extradition of Joseph Scalise and Arthur Rachel

Extradition proceedings are pending against Joseph J. Scalise and Arthur Rachel who were arrested as they disembarked from a British Airways flight from London. Their arrest was subsequent to the receipt of information from Scotland Yard detectives concerning the armed robbery that same day of a jewelry store in London. The total value of the jewelry taken was in excess of $4 million. Among the items stolen was a gem known as the Marlborough Diamond valued in excess of $1 million. (Attorney Shapiro)

United States v. Mancini, et al.

Bruno G. Mancini, alias Bruno Russo, an illegal alien, entered a plea of guilty to a charge of conspiracy to possess, publish and sell over $1 million worth of counterfeit $10 denomination United States Department of Agriculture food coupons, all of which were seized at the time of arrest. This case was the result of cooperative investigative efforts by the Drug Enforcement Administration and the Secret Service.

Mancini was sentenced to six months incarceration and four and one half years probation. Co-defendant, Federico Prestigiacomo, whose trial was severed, is awaiting trial. (Attorney Vogel)

United States v. Sarcinelli

Sam S. Sarcinelli was convicted by a jury on two counts of income tax evasion (26 U.S.C. §7201). This was the second trial of Sarcinelli on these charges. The first trial ended in a hung jury.

The evidence at trial showed that Sarcinelli diverted nearly a quarter of a million dollars from an insurance company which he partially owned. The money was funneled into his personal bank accounts, used to operate his two airplanes, and also invested in his various

businesses. Sarcinelli was sentenced to two years imprisonment on each of the two counts, the terms to run concurrently. (Attorneys Evon and Tonkovich)

United States v. Renella, et al.

Frank Renella, Nick Boulahanis and Donald Scalise were charged with violations of the Hobbs Act (18 U.S.C. §1951) and with using extortionate means to collect a debt (18 U.S.C. §894). Evidence at trial showed that the defendants were collecting money as protection payments from the owner of a Greek social club. Following a suppression hearing, defendant Renella disappeared. His case was subsequently severed. Boulahanis and Scalise, who is a former patrolman with the Chicago Police Department, went to trial early in 1981 and were convicted by a jury. They are awaiting sentencing. (Attorneys Evon and Johnson)

United States v. Brown, et al.

Robert Brown, Carl DeMichael, Glenn Ross, Stephan A. Marcantonio and Jack Louis Gail were tried on charges of mail fraud, wire fraud, and interstate transportation of stolen property. The defendants were charged with operating five heating companies in the Chicago area which defrauded customers and potential customers of over $600,000 through the sale of unnecessary equipment and worthless stock.

The bench trial of DeMichael and Marcantonio was severed and conducted prior to that of the other three defendants. One week into the trial, DeMichael pled guilty to all counts. He was sentenced to one year incarceration to be served in the Metropolitan Correctional Center work release program. Following withdrawal of Marcantonio's defense counsel, the court declared a mistrial and rescheduled his trial to follow that of the other three defendants.

At the beginning of the bench trial of Brown, Ross and Gail, Brown pled guilty to all counts. He was sentenced to fifteen years incarceration. Ross was found guilty and was sentenced to five years incarceration. Jack Louis Gail was acquitted. Stephan Marcantonio, who defended himself in his second trial, was acquitted by reason of insanity. (Attorneys Johnson and Kwoka)

United States v. Jarrett

Ronald Jarrett was convicted of armed robbery in violation of 18 U.S.C. §1951 (Hobbs Act). Jarrett, who took $39,000 in jewelry and cash from a jewelry store located in Oak Lawn, is awaiting sentencing. (Attorney Hugo)

United States v. Spilotro, et al.

Victor Spilotro, William Tenuta, Louis Tenuta, June Martino, Penelope Riccio and Emil Cibic were found guilty by a jury of conspiring to operate an illegal gambling business (18 U.S.C. §1955) and willfully failing to comply with the wagering tax laws (26 U.S.C. §7203). The defendants operated Western Messenger Service, later Western Social Club, the third largest racetrack bet messenger service in the Chicago area. Orders from thirteen different storefronts were funneled to the storefront where defendants worked. Prior to December 1978, defendants determined which orders were to be retained and which were to be layed off at the five Chicago racetracks. Subsequent to a 1978 decision of the Illinois courts upholding the constitutionality of a law banning the operation of messenger services, the defendants opened the Western Social Club which ostensibly was an Illinois non-profit organization. In fact, the bet orders of "members" were "booked" or retained by defendants rather than taken to Chicago racetracks. Victor Spilotro was sentenced to eighteen months incarceration; William Tenuta was sentenced to one year and one day imprisonment; Louis Tenuta was sentenced to sixty days incarceration and three years probation; and the remaining defendants were each placed on three years probation. (Attorneys Hugo and Kwoka)

United States v. Carlone, et al.

A superseding indictment has been returned in an international arson-for-profit scheme charging Anthony Carlone, Avie Cohen, Leonard Bednarz, Frank Pedote and two Swedish businessmen, Jan and Sven Assarsson with conspiracy to defraud the United States (18 U.S.C. §371), wire fraud (18 U.S.C. §1343), damaging and destroying, by means of an explosive, a building used in foreign commerce (18 U.S.C. §844(i)), and damaging property of a foreign government with which the United States is at peace (18 U.S.C. §956).

The indictment charges the defendants with shipment, to a warehouse in Denmark, of goods which were insured for more than three and one-half million dollars under a transit insurance contract which contained a provision for a 100% trader's profit. The indictment also charges the defendants with starting the fire which caused more than $4 million damage to the warehouse and its contents, and then submitting an in-

flated insurance claim to the Skandia Insurance Company of Malmo, Sweden.

The extradition of Jan Assarsson who is charged by the Swedish government with gross fraud was ordered by the United States Magistrate and was affirmed by the United States Court of Appeals for the Seventh Circuit. Upon the affirmance, the indictment was dismissed as to Jan and Sven Assarsson. Extradition of Sven Assarsson has been requested by Sweden, but proceedings have not yet commenced. Frank Pedote has pled guilty. The other defendants are awaiting trial. (Attorneys Kwoka and Shapiro)

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* In January 1981, Daniel E. Reidy was appointed chief of this division following the resignation of Thomas P. Johnson.

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James P. White
Ann C. Williams
Terry A. Zitek*

* Resigned during 1980

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Administrative Officer

PATTI JO HAMANN
Administrative Assistant

THERESA MEKOOLA
Criminal Secretarial Supervisor

BRENDA G. JONES
Civil Secretarial Supervisor

ELIZABETH JENDER
Docketing and Word Processing Supervisor

BRIAN A. ALBERTS
Accounting Technician

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Romeo Alcaraz
Clarence J. Andrews
Linda L. Ayre
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John R. Bonkowski
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Mark Damisch
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Vivienne E. Robinson
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Nancy Wilkerson
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Betty J. Wilson
Quida J. Wilson
Susan M. Wilson
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Faye G. Yohanna
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Mary Kay Cunningham
Kathleen Fogli
Martha Matlob
Donna Matthews*
Joyce Vismantas

Carol Wisz

* Resigned during 1980

APPENDIX

STATEMENT OF THOMAS P. SULLIVAN UNITED STATES ATTORNEY

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November 26, 1980

Arson has become a common occurrence in many parts of Chicago. It is hardly an exaggeration to say that in recent years we have experienced an epidemic of arson in Chicago.

Arson has been called the most costly crime in the nation, with some experts estimating losses of billions of dollars each year, when lost jobs and tax revenues are included. More crucial, it has been estimated that more than 500 people die each year in incendiary and suspicious fires in the United States. Arson-related crimes also cause death and injury to firefighters, increased insurance premiums, increased taxes to support fire, police and court services, loss of jobs at factory or business sites, lost revenue to the businesses themselves, loss of housing especially for inner-city residents, and erosion of the municipal tax base.

Given the vast financial damage, it is not surprising that new anti-arson initiatives have been instituted.

This is a most difficult crime to prove and prosecute. Most crime involves a victim who comes forward and reports the crime. Arsons are committed by stealth, usually without eye witnesses, and the apparent victim is often the perpetrator, who feigns innocence but who is really manipulating the weaknesses of insurance law for his own economic gain.

If an arson-related offense can be proved, there are available statutes, state and federal, under which the guilty parties can be prosecuted. The problem is proving the crime and identifying the criminal, not in finding a criminal statute upon which to base prosecution.

To meet the needs of an aggressive, knowledgeable force to ferret out and prosecute arson cases, local law enforcement agencies have banded together in a cooperative effort. In January, 1979, the federal Bureau of Alcohol, Tobacco and Firearms in Chicago formed an arson squad consisting of 18 agents, to work exclusively on the arson-for-profit cases. My office set up an arson unit, consisting of five Assistant United States Attorneys headed by a sixth Assistant who acts as the liaison between the various state and federal law enforcement agencies. All arson cases which are logged into our office are assigned for both investigation and trial to one of these Assistants. All of these persons have extensive previous trial experience.

In investigating these cases, my Assistants and ATF work closely with the Chicago Police Department Bomb and Arson Squad, the State's Attorney of Cook County, and representatives of the insurance industry. The newly-formed Coordinating Council On Arson For Profit, under the able direction of Hon. Saul A. Epton, has also provided helpful valuable service in sharing information and coordinating efforts.

Federal agencies often are better able to pursue cases in which arson is suspected, because of the nationwide subpoena power of federal grand juries for records and witnesses, and the availability of laboratory and technical expertise, relating to chemicals, handwriting and fingerprints. The federal court is in many instances a better arena for the prosecution of arson because the court's dockets are not so crowded as those of state courts.

My Assistants attempt to become involved in the investigations at the earliest time. Arson cases often involve a "paper trail" of circumstantial evidence implicating an owner in the burning of his own property. The prosecutor's involvement in the investigation gives the necessary direction to the agents on the types of evidence most helpful to the successful prosecution of the case.

Even after an indictment is secured, a successful prosecution is possible only if the prosecutor is intimately familiar with the case down to the smallest detail. Presenting the prosecution's evidence to the court or jury may require weeks of careful planning and the participation of the prosecutor in the evidence gathering process.

In the six months that the arson unit has been in existence in my office, four indictments have been returned charging nine individuals with arson or arson-related defenses. Two of the defendants have been convicted. In addition, between ten and fifteen other cases are presently under active investigation. We intend to continue our vigorous and extensive prosecution of these cases.

It is also important that citizens who have information about arson come forward and cooperate with law enforcement agencies. In my office, the number to call is 353-3525.

Arsonists must be stopped, and it makes no difference if their convictions come about in state or federal court. The essential goals are the securing of just punishment for those who perpetrate such a destructive crime, and to deter others who are tempted to commit this crime.

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